

# EXHIBIT 8

# **In the Matter of**

Case No.: 1:21-cv-08594-JHR

**ROSATI**

**v.**

**LONG ISLAND RAILROAD, et al.**

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**Deposition of Michael Bendick**

*Monday, September 18, 2023*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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STEVEN ROSATI, an individual,  
  
Plaintiff,

-against-

Case No.:  
1:21-cv-08594-JHR

LONG ISLAND RAILROAD,  
METROPOLITAN TRANSIT AUTHORITY,  
and PATRICK J. FOYE, individual,

Defendants.

-----X

September 18, 2023  
10:30 a.m.

Examination of MICHAEL BENDICK, held pursuant  
to Notice, held via Zoom conference, before  
Ruthayn Shalom, a shorthand Reporter and Notary  
Public within and for the State of New York.

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A P P E A R A N C E S :

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Miriam Manber, Esq., Hoguet Newman

Helene Hechtkopf, Esq., Hoguet Newman

Jason D. Barnes, Esq., MTA

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2 IT IS HEREBY STIPULATED AND AGREED, by  
3 and between the attorneys for the respective  
4 parties hereto, that this examination may be  
5 sworn to before any Notary Public.

6  
7 IT IS FURTHER STIPULATED AND AGREED that  
8 the sealing and filing of the said examination  
9 shall be waived.

10  
11 IT IS FURTHER STIPULATED AND AGREED that  
12 all objections to questions except as to form  
13 shall be reserved for trial.

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1 M. Bendick

2 M I C H A E L B E N D I C K, having  
3 been first duly sworn by Ruthayn Shalom, a Notary  
4 Public of the State of New York, and stating his  
5 address as 93-02 Sutphin Boulevard, Jamaica,  
6 New York 11435, was examined and testified as  
7 follows:

8 EXAMINATION BY

9 MR. PALTZIK:

10 Q Good morning, Mr. Bendick how are you?

11 A Good morning, sir. How are you doing?

12 Q Good, thank you. Mr. Bendick, I believe  
13 you said you had sat for a deposition before then I  
14 asked you what was the occasion for that; why did  
15 you sit for a deposition previously?

16 A Most recent was an employee injury and  
17 they were in a lawsuit against the Long Island  
18 Railroad. It's been mostly employee injury  
19 lawsuits, stuff like that.

20 Q How many such lawsuits have there been  
21 where you had to attend a deposition?

22 A I believe two.

23 Q What is your current job title with the  
24 Long Island Railroad?

25 A Senior Manager of Operations, Protocol and

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2 Planning.

3 Q Did you hold that title as of  
4 January 2021?

5 A No, sir. At that time I was the  
6 Superintendent of Train Service.

7 Q Did you say Superintendent of Train  
8 Service?

9 A Correct.

10 Q That was -- that was the time during which  
11 Mr. Steven Rosati was going through his disciplinary  
12 process, correct?

13 A Yes.

14 Q You understand and recognize that that is  
15 the same Steven Rosati who is the Plaintiff in this  
16 action in which you are being deposed today?

17 A That's correct.

18 Q Superintendent of Train Service?

19 A Yes, sir.

20 Q Okay. Can you please describe what that  
21 position entails for me, please?

22 A So at that time the position was  
23 responsible for overseeing all conductors, assistant  
24 conductors from the point of their hiring, from the  
25 point of their probationary period, during the point

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of their qualifying process to become certified  
conductors, the handling of their discipline and the  
handling of day-to-day activities involving  
conductors.

Q By the way, for convenience for the rest  
of this deposition, I'm going to refer to that job  
title as superintendent?

A Very good.

Q To be clear, as superintendent you had a  
managerial role with respect to all of the  
conductors in the Long Island Railroad?

A That's correct.

Q About how many conductors was that?

A It's about 1,400.

Q Prior to becoming superintendent what  
position did you hold?

A Before I was a superintendent of train  
service, I was the superintendent of the east end  
operation. I oversaw the entire east end of the  
Long Island Railroad.

Q What about before that?

A Before that I was the lead transportation  
manager of the east end.

Q What about before that?



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2 A Before that I was a transportation manager  
3 on the east end of the Long Island Railroad.

4 Q What about before that?

5 A Before that I was a special duty conductor  
6 and before that I was actually a conductor.

7 Q When was that, when did you start with the  
8 Long Island Railroad?

9 A I started with the Long Island Railroad  
10 February of 1999.

11 Q Did you have any jobs before you were with  
12 the Long Island Railroad?

13 A Yes. At the time I was a manager at  
14 McDonalds.

15 Q Did you attend college?

16 A Yes.

17 Q Where did you go to college?

18 A Saint Joseph's College.

19 Q Did you go to graduate school?

20 A Yes.

21 Q Where did you go to graduate school?

22 A Saint Joseph's College.

23 Q What was your graduate degree?

24 A I got an MBA in Business.

25 Q What about your undergraduate degree?

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2 A I got a BS in Organizational Management.

3 Q What year did you graduate from college?

4 A I think it was 2006.

5 Q What year did you graduate from graduate  
6 school?

7 A 2012.

8 Q How old are you?

9 A I'm 45.

10 Q How long have you been with the Long  
11 Island Railroad?

12 A I have been with the Long Island Railroad  
13 for now it's going on 25 years.

14 Q Do you hold any undergraduate or graduate  
15 degrees in the study of linguistics?

16 A No.

17 Q Do you hold any graduate or undergraduate  
18 degrees in any cultural studies?

19 A No.

20 Q Do you hold any graduate or undergraduate  
21 in media studies?

22 A No.

23 Q Do you hold any undergraduate or graduate  
24 degrees in labor relations?

25 A No, but I did -- I was required to take

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2 labor relation classes for my bachelors and masters  
3 degree.

4 Q Do you hold any undergraduate or graduate  
5 degrees in communications?

6 A No.

7 Q Do you hold any undergraduate or graduate  
8 degrees in terrorism or counterterrorism?

9 A No.

10 Q Any undergraduate or graduate degrees in  
11 law enforcement?

12 A No.

13 Q Any undergraduate or graduate degrees in  
14 political science?

15 A No.

16 Q Any undergraduate or graduate degrees in  
17 the First Amendment?

18 A No.

19 Q All of these subjects that I just  
20 mentioned where I asked you about graduate or  
21 undergraduate degrees, do you have any expertise in  
22 any of these subjects?

23 A No.

24 Q Obviously, you are familiar with an  
25 individual named Steven Rosati, the Plaintiff in

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2 this action, correct?

3 A Correct.

4 Q Have you ever met Steve Rosati personally?

5 A Yes, I have.

6 Q How many times did you meet him?

7 A I would say over five times. I can't  
8 remember exactly how many times. I would say  
9 approximately five times.

10 Q Were all of these meetings for  
11 disciplinary reasons or were there other reasons?

12 A No, not all of them are disciplinary  
13 reasons. I've probably come across him during train  
14 rides or getting to work on a train.

15 Q Do you have any opinion about Mr. Rosati?

16 A No.

17 Q Did you play any role in Mr. Rosati's  
18 disciplinary process?

19 A I played a role in working with labor  
20 relations for investigating the discipline process.  
21 I sat down with Mr. Rosati to talk to him about an  
22 issue we were having. I was involved in his trial,  
23 in the prep, and I was involved in the statement of  
24 facts.

25 Q It would be fair to say you played a

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substantial role in his disciplinary process,  
correct?

MS. PASRICHA: Objection.

A Correct.

MR. PALTZIK: Rephrase.

Q Did you play a role in Mr. Rosati's  
disciplinary process?

A Yes.

Q During the course -- withdrawn.

Did you communicate with Patrick J.  
Foye about Mr. Rosati's disciplinary process?

A No.

Q You're familiar with Mr. Foye, correct?

A That's correct.

Q At the time he was the chairman of the  
Metropolitan Transit Authority, correct?

A Correct.

Q Are you familiar with an individual named  
Phillip Eng?

A Yes.

Q At the time of Mr. Rosati's disciplinary  
process, Phillip Eng was the president of the Long  
Island Railroad, correct?

A Correct.

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2 Q Did you communicate with Phillip Eng about  
3 Mr. Rosati's disciplinary process?

4 A No.

5 Q Are you familiar with an individual named  
6 Marilyn Kustoff?

7 A Yes.

8 Q Who is Marilyn Kustoff?

9 A She was the director of labor relations.

10 Q At the time of Mr. Rosati's disciplinary  
11 process, correct?

12 A That's correct.

13 Q Did you ever communicate with Marilyn  
14 Kustoff about Mr. Rosati's disciplinary process?

15 A No.

16 Q Are you familiar with an individual named  
17 Stephen Damato?

18 A Yes.

19 Q Did you ever communicate with him about  
20 Mr. Rosati's disciplinary process?

21 A No.

22 Q Who did you communicate with about  
23 Mr. Rosati's disciplinary process?

24 A I mostly dealt with Erin Sherrard who  
25 worked for Marilyn and I dealt with the CTO at the

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2 time, Spiro Papanikolatos.

3 P-a-p-a-n-i-k-o-l-a-t-o-s.

4 Q Did you ever communicate with Benjamin  
5 Gallup about Mr. Rosati's disciplinary process?

6 A That's correct. I was just about to say  
7 that Ben was my lead manager at the time. I  
8 communicated with Ben.

9 Q Ben worked under you?

10 A That's correct.

11 Q Okay. What about Erin Sherrard?

12 A Erin Sherrard worked underneath Marilyn.  
13 I dealt with her.

14 Q Marilyn was the vice president of labor  
15 relations?

16 A Yes.

17 Q Erin Sherrard was sort of like Marilyn's  
18 deputy?

19 A I'm not 100 percent familiar with the  
20 hierarchy, but Erin did work for Marilyn.

21 Q The other individual you named Spiro  
22 Papanikolatos?

23 A He was the CTO, Chief Transportation  
24 Officer at the time.

25 Q We will call him Spiro?

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A Yes.

Q Chief safety transportation officer?

A Chief transportation officer.

Q You never communicated with Marilyn Kustoff about Steven Rosati's disciplinary process, correct?

A That's correct. My normal course of business doesn't require me to deal with Marilyn. I deal with Erin.

Q Did you ever communicate with Rose Covin about Mr. Rosati's disciplinary process?

A No. Same thing, I dealt with Erin. Erin worked underneath Rose as well.

Q Did you ever communicate with Vincent Campossano about Mr. Rosati's disciplinary process?

A I don't remember dealing with Vincent at the time. I don't recall.

Q Did you ever communicate with Timothy Haig about Mr. Rosati's disciplinary process?

A Very little. Timothy Haig at the time was my supervisor, but very little did I deal with him about this.

Q Did you ever communicate with Jeffrey Stevens about Mr. Rosati's disciplinary process?



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2 A No.

3 Q Did you communicate in general about  
4 Mr. Rosati's disciplinary process both verbally and  
5 in writing?

6 A Yes.

7 Q Through email and through phonecall and  
8 through in-person meetings, correct?

9 A That's correct.

10 Q Did you ever send any text messages about  
11 Mr. Rosati?

12 A I don't recall. I may have texted Ben. I  
13 don't remember though. I don't recall.

14 Q Why would you be texting Benjamin Gallup  
15 about Mr. Rosati's disciplinary process?

16 A We may have discussed that he was going to  
17 come in on a certain day and we would have to be  
18 there or something like that.

19 Q I'm going to show our first exhibit here.  
20 (Bendick Exhibit 1, Marked for Identification.)

21 Do you see my screen, Mr. Bendick?

22 A Yes.

23 Q Can you please take -- this is a very  
24 short document. Can you please take a moment to  
25 look at it?

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2 (Witness perusing document.)

3 A Uh huh.

4 Q Would it be fair to say that this  
5 document, Bendick 1, is an email dated, January 31,  
6 2021, from you to Erin Sherrard, Rose Covin, Marilyn  
7 Kustoff, Ben Gallup, Vincent Campossano, Spiro  
8 Papanikolatos and Timothy Haig?

9 A Okay.

10 Q The subject is Rosati Twitter Screen Shot,  
11 correct?

12 A Yes.

13 Q Now there is an original email here so  
14 it's really two emails. First, Benjamin Gallup sent  
15 an email to you and it says, I was just sent this  
16 screen shot of an old Twitter account that appears  
17 to be run by Steve Rosati; do you see that?

18 A I do see that.

19 Q Do you know what the image was? The image  
20 does not appear in this exhibit. Do you know what  
21 the image or screen shot was?

22 A No, I don't recall. I don't recall.

23 MR. PALTZIK: I will call for production  
24 of that image, please. Image 6924.png, please.

25 (Counsel Request.)

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2 MS. PASRICHA: Follow up in writing.

3 BY MR. PALTZIK:

4 Q In any event can you just -- Mr. Bendick,  
5 can you please read what you wrote in the email?

6 A Does this help our case. It's before he  
7 worked here.

8 Q You agree you wrote that?

9 A It appears I wrote it.

10 Q Do you notice that two of the recipients  
11 on your email are Rose Covin and Marilyn Kustoff?

12 A Uh huh.

13 Q You testified several minutes ago that you  
14 never communicated with them about Mr. Rosati's  
15 disciplinary process, correct?

16 MS. PASRICHA: Objection.

17 A I meant verbally communicate. I don't  
18 remember who I copied on emails. Did I speak to any  
19 of those individuals about this case, I did not. If  
20 I emailed them I emailed them.

21 Q So then to correct your testimony then you  
22 did have communications with them about the  
23 disciplinary process?

24 A Apparently, I copied them on emails, but I  
25 don't recall ever having any personal conversations

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2 with him about the case.

3 Q Why were you asking if this screen shot  
4 helped the case?

5 A I don't know what the screen shot entails.  
6 I would have to see it and I would be able to answer  
7 that question. I don't remember.

8 MR. PALTZIK: Whatever this screen shot  
9 and we will get a hold of it, and I would also  
10 notice at this juncture that I reserve the  
11 right to reopen this deposition to ask  
12 Mr. Bendick about the screen shot.

13 Q It says you wrote that quote, It's before  
14 he worked here, correct?

15 A That's correct.

16 Q So why were you trying to use a screen  
17 shot from before Mr. Rosati worked at the Long  
18 Island Railroad in order to discipline him?

19 A Without seeing the screen shot, I wouldn't  
20 be able to answer that.

21 Q Safe to say you were attempting to use a  
22 screen shot of Mr. Rosati before he was at the Long  
23 Island Railroad in order to discipline him, correct?

24 A I wanted to look at the screen shot to see  
25 if it helped our case. I don't know what the screen

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2 shot is. I don't know how to answer your question  
3 unless I was able to see the screen shot.

4 Q Well, do you still have access to your  
5 Long Island Railroad email?

6 A Yes, but things don't get saved like this.  
7 They only go back a certain amount of time.

8 Q Do you have the ability to access this  
9 email today?

10 A I don't know.

11 MR. PALTZIK: I would ask that during the  
12 next break that the witness make an attempt to  
13 access this email, please, and then we can  
14 return to this question.

15 Q In any event while we wait for that to  
16 happen, in the mean time I would ask how could it  
17 possibly be relevant what Mr. Rosati did before he  
18 was an employee of the Long Island Railroad?

19 A I don't know. If I saw what the picture  
20 was I may be able to answer that question. I don't  
21 recall the image, I don't remember why we looked at  
22 it. I don't remember what it entailed. It's  
23 difficult for me to answer that.

24 Q We will put a pin in that topic and we  
25 will return to that after you had an opportunity to

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2 check your email.

3 Does the Long Island Railroad have  
4 any policy or procedure that you follow with respect  
5 to the deletion of emails?

6 A No, I don't delete emails. It  
7 automatically gets deleted.

8 Q Long Island Railroad work emails  
9 automatically get deleted?

10 A At some point they automatically become  
11 deleted or if there is a certain amount of time. I  
12 don't know how long they last. I don't work for IT.  
13 I know that you can only go back to a certain time  
14 when it comes to email.

15 Q Are they deleted or are they archived?

16 A I don't know if they are archived or  
17 deleted. All I know is I don't have access to them.

18 MR. PALTZIK: I would like to also note  
19 for the record at this time that this raises a  
20 question about whether evidence has been  
21 destroyed or has not been provided. I call for  
22 production of information about what this Long  
23 Island Railroad policy is relating to deletion  
24 or archival of emails in order to determine  
25 whether we have been given all of the emails we

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2 are entitled to.

3 MS. PASRICHA: At this time we can  
4 represent that there was a litigation hold. If  
5 you can put your requests in writing.

6 (Counsel Request.)

7 MR. PALTZIK: I will note for the record I  
8 don't believe that that request should have to  
9 be in writing. It's a simple question of  
10 whether anything was deleted, particularly Mr.  
11 Bendick's. I'm not even at the point where I'm  
12 asking for the documents themselves. I'm trying  
13 to determine whether there are any emails that  
14 Mr. Bendick does not have access to because  
15 they were deleted or archived so my question  
16 stands.

17 BY MR. PALTZIK:

18 Q When was the first time you met  
19 Mr. Rosati?

20 A The first time I recall meeting him is  
21 when employees graduate and they -- we have  
22 ceremonies. I came in and meet them when they are  
23 probationary employees, I met him, but the first  
24 time I recall meeting him is when I sat down with  
25 him in Babylon Yard to talk to him about stuff we

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2 were finding online.

3 Q When was that?

4 A I don't remember the date, but I believe  
5 it was in October.

6 Q Would that have been October 2020?

7 A That's correct.

8 Q So what was the stuff that you were  
9 finding online about him?

10 A We were find him making videos while he  
11 was working.

12 Q What kind of videos?

13 A He was talking about different things  
14 about -- I remember him talking about God and  
15 talking about wake up. I don't remember the details  
16 of the information because it really wasn't relevant  
17 what he was saying. What was relevant to us at the  
18 time was he was working and making these videos.

19 Q Some of these videos contained political  
20 messages, correct?

21 A That's correct, but at the time we didn't  
22 know -- our concern was that he was making these  
23 videos while working which is in violation of our  
24 rules and the FRA rules.

25 Q When you say the FRA what is that?



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2 A That's the Federal Railroad Authority --  
3 Administration. That's the governing body of the  
4 Long Island Railroad.

5 Q When you spoke to Mr. Rosati about this  
6 situation, what, if anything, did you learn?

7 A Nothing. We sat down we him. I tried to  
8 have a gentlemen's conversation. I said listen, you  
9 have to stop making these videos, you can't have  
10 videos while you're working online, you have to take  
11 them down, you can't do this. It had nothing to do  
12 with whatever the message was. Our concern was he  
13 was making videos while he was working. That was my  
14 concern.

15 Q What was Mr. Rosati's reaction?

16 A I don't remember him being combative. He  
17 was pretty understanding at the time.

18 Q Did he comply?

19 A I did not continue to follow up with Mr.  
20 Rosati. The problem was later on we found the  
21 videos were still online, still there.

22 Q It was social media, right?

23 A That's correct.

24 Q This social media content in which you're  
25 representing to me that Mr. Rosati was either on

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2 duty or in uniform if I'm saying that accurately.

3 You're nodding, yes?

4 A On duty would be proper.

5 Q This social media content, was Mr. Rosati  
6 ever disciplined for this?

7 A No. I sat him down and I gave him a  
8 verbal warning and that was that. I was hoping to  
9 move on from that point.

10 Q Was the issue here that Mr. Rosati was  
11 online on Railroad property, in Long Island Railroad  
12 uniform or both?

13 MS. PASRICHA: Objection. You can answer.

14 A The issue --

15 MR. PALTZIK: Rephrase.

16 Q In the social media and videos that you  
17 saw and you talked to Mr. Rosati about in October of  
18 2020, was he in Long Island Railroad uniform?

19 A Yes, and he was making videos on a moving  
20 train while he was working.

21 Q Effectively, he was on Long Island  
22 Railroad property?

23 A As well on Long Island Railroad's time.

24 Q Understood. He was on the clock?

25 A Yes.

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2 Q What action was taken? Was he given a  
3 reprimand? How was this ultimately resolved?

4 A He was treated better than most people who  
5 are caught being on a cellphone the first time.  
6 Every person caught being on a cellphone that first  
7 time is given a reprimand. In this case he was sat  
8 down and he was given a verbal caution to stop  
9 making videos while he was working, stop making  
10 videos in uniform and take the stuff down.

11 Q Was he subject to further discipline or  
12 was that the conclusion of this situation?

13 A At that time that was the conclusion.

14 Q Who, if anybody, did you talk to about  
15 this issue with the impermissible videos?

16 A The union, Ben. I believe Ben was with us  
17 at the time.

18 Q Gallup?

19 A Yes, that's pretty much it. It wasn't  
20 really an issue that I needed to bring attention to  
21 my bosses or anything.

22 Q Was Mr. Rosati ultimately disciplined for  
23 this conduct in January of 2021?

24 A Mr. Rosati was disciplined for conduct, he  
25 was disciplined for subterfuge for calling in sick

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at work and being on News 12 and being at rallies.  
He was disciplined for some content and he was  
disciplined for other reasons as well.

Q I'm talking just specifically about this  
issue of videos in uniform. The one that was  
addressed in October of 2020. Was Mr. Rosati  
ultimately disciplined for that specific issue?

A No.

Q He was not?

A No.

Q That was not one of the subjects of the  
January 2021 discipline?

A I don't recall all the subjects. We had a  
lot of photos and videos and stuff.

Q We will get to that.

When was the next time you met  
Mr. Rosati?

A I don't recall. I mean again at this  
point I have almost 1,500 employees. I don't spend  
time focusing on one individual. It wasn't like the  
center of our world directed on Mr. Rosati. I don't  
remember the next time I came across him.

Q Did you ever have an argument with him?

A I don't recall having an argument with

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2 him.

3 Q You met him on up to five occasions,  
4 correct?

5 A Correct.

6 Q That's unusual. You do not meet most  
7 conductors five times, correct?

8 A No, that's not correct. I meet conductors  
9 plenty of times.

10 Q Were all your meetings with Mr. Rosati  
11 related to discipline?

12 A No.

13 Q What were the nondisciplinary meetings?

14 A I remember coming across him being on a  
15 train getting to work or maybe taking a train ride  
16 once or twice.

17 Q Are you registered to vote?

18 A Yes.

19 Q Are you registered as a Democrat or a  
20 Republican or unaffiliated?

21 A I'm registered as a Republican.

22 Q How long have you been registered as a  
23 Republican?

24 A Since I was in high school.

25 Q Have you ever donated any money to any

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2 political campaigns?

3 A Unfortunately, I have to pay my kids'  
4 Catholic school tuition. I can't afford to donate.

5 Q Have you ever been appointed to any  
6 position by any politician?

7 A No.

8 Q I'm going to show another exhibit. I will  
9 share my screen.

10 Mr. Bendick, can you see my screen?

11 A Yes.

12 Q Please take your time. I will scroll  
13 slowly and you can me if you recognize the document.

14 (Witness perusing document.)

15 A Yes.

16 Q Have you had enough time to determine  
17 whether you recognize this?

18 A That's correct.

19 Q By the way this is Bendick 2.

20 (Bendick Exhibit 2, Marked for Identification.)

21 What is this?

22 A This is his trial notice.

23 Q Did you -- Mr. Bendick, did you draft this  
24 document or did you sign it?

25 A No, I review it, I do not draft it. It

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2 was drafted by Erin Sherrard's group and I did not  
3 sign it. I reviewed it and they sign it on behalf  
4 of me.

5 Q You approved it, you didn't let somebody  
6 sign it without your approval, correct?

7 A That's correct.

8 Q This is called Notice of Trial and it's  
9 dated, January 29, 2021, correct?

10 A Correct.

11 Q The contents of this document appear to be  
12 accurate, correct?

13 A Correct.

14 Q Now this document says that multiple  
15 disciplinary charges were brought against  
16 Mr. Rosati, correct?

17 A That's correct.

18 Q Now one of these charges or specifications  
19 was violation of MTA Respectful Workplace Policy,  
20 correct?

21 A That's correct.

22 Q Can you please describe for me how  
23 Mr. Rosati violated the MTA respectful workplace  
24 policy?

25 A At the time when we were investigating

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2 some of the material he was posting online was  
3 affiliated with some controversial topics. Since we  
4 have such a diverse workforce and diverse group of  
5 customers, that's the reason why we considered some  
6 of this material to be offensive.

7 Q So I'm a little confused. Was the  
8 standard for discipline, was it controversy? Why is  
9 it relevant that it was controversial?

10 A It was relevant because he was -- he was  
11 being affiliated with groups that are considered to  
12 be controversial and racist and white supremacists  
13 and stuff like that.

14 Q There is a lot here. We will have to go  
15 slowly.

16 Mr. Rosati, he maintained a social  
17 media page called Unfiltered Conservative, correct?

18 A That's correct.

19 Q Was that Facebook, Instagram, what was it?

20 A I don't recall. I don't remember if it  
21 was Facebook or Instagram.

22 Q His discipline was based on his  
23 maintenance of a page called Unfiltered  
24 Conservative, correct?

25 A That's correct.



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2 Q Was his Unfiltered Conservative page the  
3 primary reason that he was disciplined?

4 A He was -- that was the main contributing  
5 factor to it, absolutely.

6 Q Just so you're quoted accurately here,  
7 Mr. Rosati's Unfiltered Conservative page was the  
8 main contributing factor towards his discipline,  
9 correct?

10 MS. PASRICHA: Objection. You can answer.

11 A I think what the main contributing factor  
12 was when he was recognized as a Long Island Railroad  
13 conductor through the media and how he did not put  
14 the company in good light was the main reason why  
15 Mr. Rosati was disciplined.

16 Q What you're talking about not putting the  
17 company in good light, that was based on the content  
18 of his Unfiltered Conservative page, correct?

19 A That was the content of his Unfiltered  
20 Conservative and it was content that was being  
21 shared by Twitter and other social media aspects.

22 Q From the prospective of the Long Island  
23 Railroad, his Unfiltered Conservative page put the  
24 Long Island Railroad in a negative light, correct?

25 A I would say when he was recognized on

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2 Twitter for being in Washington the day of the riots  
3 is what really was the bigger issue at the time and  
4 all of this other stuff came to light when the media  
5 started getting involved.

6 Q Let's back up to make sure we are talking  
7 about the same thing. You talked about the riot.  
8 Are you talking about the events of January 6, 2021,  
9 at the United States Capital?

10 A Yes.

11 Q Okay. Just for the sake on convenience,  
12 Mr. Bendick, for the rest of this deposition can we  
13 just refer to that as January 6?

14 A Sure.

15 Q Okay. So Mr. Rosati's presence at  
16 January 6th was a problem for the Long Island  
17 Railroad?

18 A It was not a problem for us until it was  
19 pointed out on social media your conductor was here  
20 on this day, what was he doing and stuff like that.

21 Q Why did that become a problem that  
22 Mr. Rosati was on January 6th?

23 A Because a Long Island Railroad employee  
24 was identified for being there and soon after that,  
25 he was affiliated with his website and all of his

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2 postings.

3 Q Was being at January 6th in and of itself  
4 a problem for the Long Island Railroad?

5 A It was a problem because -- like I said,  
6 once he was recognized in the media for being there,  
7 it was a problem for the Long Island Railroad.

8 Q Well was Mr. Rosati ever arrested in  
9 connection with January 6th?

10 A Not to my knowledge.

11 Q He was never prosecuted in connection with  
12 January 6th, correct?

13 A Not to my knowledge.

14 Q You are aware that presently there are  
15 hundreds of criminal prosecutions in federal court  
16 relating to January 6th, correct?

17 A Not to my knowledge.

18 Q Are you aware that some folks have been  
19 arrested in connection with January 6, 2021?

20 A Yes.

21 Q Mr. Rosati was not one of them, correct?

22 A I don't know.

23 MS. PASRICHA: Objection.

24 Q Well can you please describe for me what  
25 the Long Island Railroad's specific problem was with

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2 Mr. Rosati's presence at January 6th?

3 A The problem was he was identified as being  
4 there, he was identified as being someone who was  
5 sharing social media posts and selling things that  
6 were offensive to our workforce and potential  
7 customers.

8 Q How many people were on the Long Island  
9 Railroad workforce at the time?

10 A Thousands.

11 Q How many customers of the Long Island  
12 Railroad were there at the time?

13 A Thousands.

14 Q Did you expect all of these thousands of  
15 people to agree with Mr. Rosati's content?

16 A Didn't think about it.

17 Q But is that the standard here? In other  
18 words, if somebody disagreed with Mr. Rosati's  
19 content then he gets disciplined?

20 MS. PASRICHA: Objection. You can answer.

21 A The standard here -- anybody who has  
22 issues or issues in the news or identified as a Long  
23 Island Railroad employee, if it's something that  
24 goes against our policies, they would be disciplined  
25 appropriately.

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M. Bendick

Q The problem here was Mr. Rosati's speech,  
correct?

MS. PASRICHA: Objection.

A I don't understand your question.

Q Well, Mr. Rosati went to the Capital on  
January 6th, correct?

A That's correct.

Q He went to the Capital on January 6th to  
protest the results of the 2020 Presidential  
election, correct?

A I don't know why he went there.

Q Did he not go there to support at the time  
President Donald Trump?

MS. PASRICHA: Objection.

A He didn't tell me why he was going there.

Q He wasn't going there to support at the  
time candidate Joe Biden, was he?

A I'm not going to tell you. I don't know  
what he was going to do there.

Q Did you learn what he did there?

A I learned that he was there.

Q You learned that Mr. Rosati -- you can't  
have it both ways. Either you knew what he did  
there or you don't know what he did there.

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2 A No, I know he was there. I don't know  
3 what he did there.

4 Q As you sit here today on September 18,  
5 2023, do you have any idea what Mr. Rosati did while  
6 he was at the United States Capital on January 6,  
7 2021?

8 A No.

9 Q If you have no idea what he did at January  
10 6th, how could he have been disciplined for being at  
11 the Capital on January 6, 2021?

12 A Mr. Rosati was disciplined because of his  
13 web -- his social media, his hand gestures, stuff  
14 that the common person finds offensive.

15 Q Was Mr. Rosati subject to disciplinary  
16 charges prior to January 6, 2021?

17 A Yes.

18 Q What was he subject to discipline for?

19 A He was disciplined for subterfuge when he  
20 was calling off sick when he wasn't sick and if I  
21 remember correctly he was AWOL as well.

22 Q When was that resolved?

23 A I don't know the dates. I would have to  
24 see his trial office.

25 Q All the discipline about Mr. Rosati's

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2 social media page, Unfiltered Conservative, that  
3 came only after January 6, 2021, correct?

4 A That's correct.

5 Q That social media activity, that was  
6 happening well before January 6, 2021, correct?

7 A I know about the stuff he made at work.  
8 We didn't continue to monitor him. I assumed my  
9 conversation with him sitting down with him asking  
10 him to remove the stuff related to work and not  
11 being identified as a Long Island Railroad making  
12 videos was enough. I have 1,500 employees. I  
13 didn't personally follow Mr. Rosati's websites.

14 Q Nor would you be expected to.

15 Mr. Rosati was only disciplined for  
16 the content of his Unfiltered Conservative social  
17 media page after January 6, 2021, correct?

18 A That's correct.

19 Q So the Long Island Railroad had a problem  
20 with the content of Mr. Rosati's Unfiltered  
21 Conservative social media page, correct?

22 A That's correct.

23 Q Okay. Mr. Rosati was disciplined by the  
24 Long Island Railroad because of the content of his  
25 Unfiltered Conservative social media page, correct?

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2 A Based on this trial notice here, yes. He  
3 was disciplined previously for other things. He was  
4 AWOL, he was disciplined for subterfuge for being at  
5 rallies when he was supposed to be at work when he  
6 called off sick. In this case what you're showing  
7 me here this exhibit, that's what he was disciplined  
8 for in this case.

9 Q Right. In other words the notice of  
10 discipline -- excuse me. Withdrawn.

11 The notice of trial and just so I'm  
12 clear, my next question because I want to get a yes  
13 or no answer with no qualification, this exhibit,  
14 Bendick 2, Notice of Trial dated, January 29, 2021,  
15 these charges contained in this notice, these are  
16 the charges that ultimately led to Mr. Rosati's  
17 termination from the Long Island Railroad, correct?

18 A Correct.

19 Q Conduct unbecoming of a Long Island  
20 Railroad, violation of respectful workplace policy,  
21 violation of social media policy, violation of Rule  
22 801 in the Rules of the Operating Department,  
23 correct?

24 A Correct.

25 Q So Mr. Rosati was terminated in



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2 substantial part because of the content of his  
3 Unfiltered Conservative social media page, correct?

4 A Correct.

5 Q A large part of the content that he was  
6 disciplined for was an alleged white power hand  
7 symbol, correct?

8 A That's correct.

9 Q Which we will come back to.

10 So it would be accurate to say that  
11 Mr. Rosati was not disciplined for the content of  
12 his Unfiltered Conservative social media page until  
13 after January 6, 2021, correct?

14 A I'm not going to say that's correct  
15 because the material I saw earlier, I don't know  
16 where it came from. All I know it was social media.  
17 I don't know -- he's had many different pages. I  
18 can't say that the original stuff that I sat down  
19 and spoke to him about was Unfiltered Conservative.  
20 I don't know what name he had at that time.

21 Q But Mr. Rosati was not subject to the  
22 penalty of termination until after January 6, 2021,  
23 correct?

24 A That's correct.

25 Q This discipline proceeding, in other words

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2 the notice of trial that was served on Mr. Rosati on  
3 January 6, 2021, these allegations were not lodged  
4 against Mr. Rosati until after January 6, 2021,  
5 correct?

6 A I sat down with him in October and I spoke  
7 to him about making videos so he was wasn't charged  
8 for anything.

9 Q There is a crucial distinction here. As  
10 per your testimony you testified earlier in this  
11 deposition that in October of 2020 when you sat down  
12 with Mr. Rosati, you testified that those  
13 conversations were not about the content of his  
14 social media pages, correct, it was not about the  
15 content?

16 A That's correct.

17 Q Right. The 2020, I don't know, may I call  
18 that a warning -- I'll call it whatever you want,  
19 conversation?

20 A Warning is good.

21 Q Mr. Bendick, in October of 2020, you gave  
22 Mr. Rosati a disciplinary warning, correct?

23 A That's correct.

24 Q We agree that the disciplinary warning was  
25 not content based, correct?

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2 A That's correct. I don't remember paying  
3 attention to it. It was only concern about the fact  
4 he was making videos on our trains in uniform.

5 Q We agree that that was the purpose of the  
6 warning. In fact, the October 2020 warning was  
7 related only to the fact that the social media  
8 content was being created on the clock, so to speak,  
9 correct?

10 A That's correct. I talked to him about not  
11 being in uniform and not putting the company in bad  
12 light, he has to be careful what he said. I did say  
13 to him you have to be careful, be careful what you  
14 post. I treated him like a gentleman and told him  
15 stop making these videos, stop doing it in uniform,  
16 you don't want to represent the Railroad making  
17 statements and stuff like that. It was very  
18 informal.

19 Q Sure. I have no doubt that that's  
20 accurate there. My question then becomes though by  
21 your own testimony here that changed. In other  
22 words October 2020 not content based, but the  
23 January 2021 discipline was content based, correct?

24 A Yes.

25 Q Okay. So by the way moving forward for

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2 convenience of reference, I will refer to October as  
3 the October 2020 discipline and I will refer to the  
4 January discipline as the January 2021 discipline,  
5 correct?

6 A Good enough.

7 Q So yes or no, the January 2021 was content  
8 based?

9 A Yes.

10 Q Now prior to January 2021, Mr. Rosati had  
11 maintained social media pages of which the Long  
12 Island Railroad was aware, correct?

13 A Correct.

14 Q So his Unfiltered Conservative content was  
15 known to the Long Island Railroad prior to the  
16 January 2021 discipline, correct?

17 A Like I said earlier, I don't know what he  
18 originally -- when I originally spoke to him in  
19 October, I don't remember what social media site we  
20 got it from. I know he has different social media  
21 sites, I know he's changed it. I don't want to say  
22 yes, correct, I can't say that. All I know is that  
23 after October, we didn't continue to follow him, we  
24 didn't continue to keep an eye on his social media  
25 posts. We considered it a closed issue at the time.

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2 Q His social media posts, to your knowledge,  
3 prior to January 2021 discipline, his social media  
4 posts were political in nature, correct?

5 MS. PASRICHA: Objection. You can answer  
6 if you know.

7 A Like I said, I don't know if they were  
8 political. I believe there was some stuff related  
9 to the pandemic. I wasn't following him too much.  
10 Like I said we considered the case to be closed in  
11 October, we hoped to move on and not have anymore  
12 issues.

13 Q Mr. Rosati violated the MTA respectful  
14 workplace policy?

15 A Correct.

16 Q How did he do that?

17 A Like I said earlier, we have a diverse  
18 workforce and the stuff that he was posting and hand  
19 signs and stuff like that is affiliated with racist,  
20 white supremacists groups.

21 Q We will come back to that. Are you  
22 familiar with a press conference that Patrick J.  
23 Foye conducted in January 2021 at which he called  
24 Mr. Rosati a jackass?

25 A I'm familiar with it, but I believe as it

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2 was going on we were sitting with Mr. Rosati doing  
3 his statement of facts so I didn't watch it.

4 Q While that press conference was going on  
5 you were with Mr. Rosati?

6 A Correct.

7 Q Why?

8 A We were doing the statement of facts.

9 Q What is that?

10 A That's where we ask questions where we do  
11 an investigation. We ask him questions about  
12 various things related to this case.

13 Q Why was the interview going on during  
14 Mr. Foye's press conference?

15 A I have nothing to do with the chairman.  
16 He's many levels ahead of me. I don't work with  
17 him. I don't even know him.

18 Q Was that just a coincidence that those two  
19 events were going on at the same time?

20 A Absolutely.

21 Q Do we agree that Patrick J. Foye called  
22 Mr. Rosati a jackass in a public press conference?

23 A I heard that he did, yes.

24 Q Was Mr. Foye's name calling of Mr. Rosati  
25 calling him a jackass, was that consistent with the

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2 MTA respectful workplace policy?

3 A I don't know.

4 Q Jackass is an insult, correct?

5 A Sure.

6 Q So Mr. Foye insulted Mr. Rosati in a  
7 public press conference, correct?

8 A That's correct.

9 Q That insult came while Mr. Rosati was  
10 still under investigation for discipline, correct?

11 A That's correct.

12 Q That insult came before any determination  
13 had been made against Mr. Rosati, correct?

14 A Repeat it.

15 Q That insult, jackass, that came before any  
16 determination had been made against Mr. Rosati in  
17 terms of his discipline, correct?

18 A That's correct. We didn't even have a  
19 trial yet.

20 Q Was that respectful for Mr. Foye to call  
21 Mr. Rosati a jackass in public?

22 A I don't think it's respectful if anybody  
23 calls anybody a jackass.

24 Q In fact it was disrespectful, wasn't it?

25 MS. PASRICHA: Objection.

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2 A I guess if somebody called me a jackass, I  
3 would find it to be disrespectful.

4 Q Mr. Foye violated the MTA Respectful  
5 Workplace Policy, didn't he?

6 MS. PASRICHA: Objection.

7 A I don't know. I don't know. I don't  
8 know -- I don't know what he's -- he's the chairman.  
9 Maybe he has different policies that he needs to  
10 follow. I don't know.

11 Q So maybe Mr. Foye is above the law, so to  
12 speak?

13 MS. PASRICHA: Objection.

14 A No.

15 Q The MTA Respectful Workplace Policy would  
16 have applied to Mr. Foye, correct?

17 A I imagine. He's an MTA employee.

18 Q There is not a different set of rules for  
19 him. He has to treat people respectfully too,  
20 right?

21 A I would say so.

22 Q On the occasion when he called Mr. Rosati  
23 a jackass, he failed to act in accordance with the  
24 Respectful Workplace Policy, correct?

25 MS. PASRICHA: Objection.



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2 A Again, I'm not responsible for the  
3 disciplining of senior MTA executives. I don't want  
4 to weigh in on it.

5 MS. PASRICHA: Can we take a quick  
6 bathroom break?

7 MR. PALTZIK: Absolutely, sure. When do  
8 you want to come back?

9 MS. PASRICHA: Ten minutes.

10 MR. PALTZIK: Thank you.

11 (Whereupon, a short recess was taken.)

12 MS. PASRICHA: We have produced that image  
13 before in October 2022. We reproduced it again  
14 in our June production and we also produced it  
15 most recently in the September production in  
16 the native form. I will tell you the Bates  
17 numbers if it's easier for you to find.

18 MR. PALTZIK: I don't know. Which exhibit  
19 are we talking about?

20 MS. PASRICHA: This is about Bendick 1.  
21 That email and you were talking about the image  
22 that you couldn't find the image attachment  
23 for.

24 MR. PALTZIK: You're saying it was  
25 produced?

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2 MS. PASRICHA: Yes. It was produced as  
3 Rosati LIRR 987 and I believe that Bendick 1  
4 was Rosati LIRR 986. I believe that Bendick 1  
5 is Rosati LIRR 0986 and the attachment should  
6 be Rosati LIRR 987.

7 MR. PALTZIK: Thank you.

8 MS. PASRICHA: You're welcome.

9 MR. PALTZIK: I'm texting that to my law  
10 clerk. I do intend to ask followup questions.  
11 I would say if you have it handy and you want  
12 to give it to me that's fine. Otherwise, I'm  
13 going to have my law clerk find it.

14 MS. PASRICHA: I don't have my computer  
15 now. It was also produced in our latest  
16 production again. All the emails should be  
17 produced in native format. He should be able  
18 to open the attachment.

19 BY MR. PALTZIK:

20 Q Mr. Bendick, how did the January 2021  
21 discipline come about? In other words were there  
22 complaints made?

23 A It came to us -- people were talking about  
24 it on Twitter. It came to the attention of the  
25 company on Twitter that someone was saying something

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M. Bendick

about how Long Island Railroad -- I don't do  
Twitter. They tagged Long Island Railroad on  
Twitter saying Long Island Railroad, where was your  
conductor Steven Rosati on January 6, 2021. The  
Long Island Railroad started to investigate what was  
going on and what happened.

Q I don't do Twitter either. There were  
also anonymous complaints, correct?

A That was an anonymous one, the Twitter  
one.

Q There were anonymous complaints made in a  
variety of ways, correct?

A Correct.

Q There was Twitter?

A That's correct.

Q There was emails, correct?

A I don't remember emails.

Q Calls?

A I didn't receive any calls.

Q But there were a number of anonymous  
complaints about Mr. Rosati after January 6, 2021?

A The majority of that I recognize and  
remember was all due to social media.

Q Do you know how many complaints were made

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2 against Mr. Rosati after January 6, 2021?

3 A Complaints by whom?

4 Q That's what I'm saying. Members of the  
5 public, LIRR employees, customers. I'm trying to  
6 determine -- basically, I want to know how many of  
7 these complaints there were and who made them?

8 A I don't have access to customer  
9 complaints. I don't get customer complaints so I  
10 don't know.

11 Q What about complaints by Long Island  
12 Railroad employees?

13 A I don't remember receiving any Long Island  
14 Railroad employee complaints. They can go to  
15 diversity or other places.

16 Q In fact there were complaints made to  
17 diversity, correct?

18 A I don't know.

19 Q Somebody complained about Mr. Rosati after  
20 January 6, correct?

21 A Again I remember the driving force was  
22 being the stuff that was put on social media, him  
23 being identified as a Long Island Railroad conductor  
24 on January 20th, and that kind of just opened up the  
25 door to all his social media sites and the

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1 M. Bendick

2 information he was posting.

3 Q You talked about January 20th just now.  
4 Did you mean January 6th?

5 A Sixth, I'm sorry.

6 Q Why were these complaints a basis for  
7 discipline?

8 A Again, once he was recognized as a Long  
9 Island Railroad employee and people, whether the  
10 employees, there was a lot of chatter, I can't  
11 pinpoint the specific names or how many people  
12 started talking, the media got ahold of it, senior  
13 management was made aware of it and some of his  
14 content become known. He was affiliated with the  
15 Long Island Railroad and that's what the problem  
16 became. It became when he was affiliated with the  
17 Long Island Railroad. Again as I previously stated  
18 that some of the content that he had on his various  
19 social media sites is considered to be offensive and  
20 racist.

21 Q Okay. Which content on Mr. Rosati's  
22 Unfiltered Conservative social media page was  
23 considered by the Long Island Railroad to be  
24 offensive and racist?

25 MS. PASRICHA: Objection. You can answer

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1 M. Bendick

2 if you understand.

3 A I remember the hand sign. I guess it's an  
4 A-OK hand sign.

5 Q The Long Island Railroad considered the  
6 hand symbol to be a white supremacist hand symbol?

7 A I think the Long Island Railroad  
8 considered the fact that your average person  
9 recognizes that as a racist symbol these days.

10 Q Oh really. Okay, we will talk about that.  
11 What else were people complaining about?

12 A They were complaining about the fact he  
13 was selling stuff without getting permission to have  
14 outside employment, complaining about some of the  
15 stuff he was posting about harassing people at  
16 medical facilities getting vaccines with his  
17 bullhorn, and harassing people on Sunrise Highway  
18 because of Joe Biden stickers that they had on their  
19 car and overall his behavior was someone that was  
20 not representing a Long Island Railroad employee  
21 well.

22 Q The alleged white power hand symbol was a  
23 substantial motivating factor behind the discipline  
24 against Mr. Rosati, correct?

25 A I would say one of the motivating factors.

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1 M. Bendick

2 Q In your opinion did Mr. Rosati make a  
3 white supremacist hand gesture on social media?

4 A I'm not an expert on white supremacist  
5 hand signs, but at the time when we did research, we  
6 did learn that it was considered to be -- it could  
7 be considered an offensive white supremacist hand  
8 sign.

9 Q How were you qualified to make that  
10 determination if you, by your own admission, are not  
11 an expert?

12 A Just basically searched online.

13 Q Okay. Are you familiar with an individual  
14 named Kelly Coughlin?

15 A She was Trump's -- she worked for Trump.  
16 She was Trump's press secretary or something.

17 MR. PALTZIK: Excuse me, off the record.  
18 (Whereupon, an off-the-record discussion was held.)

19 BY MR. PALTZIK:

20 Q Mr. Bendick, if I told you that a Long  
21 Island Railroad representative stated in a  
22 deposition that the finding that Mr. Rosati had made  
23 a white supremacist hand gesture was based on your  
24 research, would you believe that to be true?

25 A No, it was collective. We worked with

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1 M. Bendick

2 labor relations to do research. I worked with Ben,  
3 myself and Erin Sherrard.

4 Q So you conducted research on the supposed  
5 white supremacist hand gesture?

6 A That's correct.

7 Q What possible qualifications did you have  
8 to conduct research about a white supremacist hand  
9 gesture?

10 MS. PASRICHA: Objection.

11 A Just doing basic searches online.

12 Q Just so I understand, you concluded that  
13 Mr. Rosati had made a white supremacist hand gesture  
14 based on online searches that you conducted?

15 A Again, the problem with what we took  
16 exception to is that people take that hand gesture  
17 as a racist one, that's what our problem was. It  
18 appeared to be a racist hand sign one that's  
19 affiliated with a racist white supremacy behavior.

20 Q Right, but what qualifications do you  
21 possess to make that determination?

22 A Just basic ability to be able to do  
23 research online.

24 Q I have the ability to conduct research  
25 online, don't I?



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1 M. Bendick

2 MS. PASRICHA: Objection.

3 A I don't know what your qualifications are.

4 Q Anybody of basic intelligence can conduct  
5 research online, correct, using Google?

6 MS. PASRICHA: Objection. You can answer.

7 A Sure.

8 Q Did you possess any special qualifications  
9 to conduct this sort of research?

10 A As I testified earlier when you asked me  
11 about my degrees, I have no level of education in  
12 terms of any type of studies related to white  
13 supremacy or anything like that.

14 Q Did anybody with the Long Island Railroad  
15 conduct this research with you?

16 A I worked with Erin Sherrard and Benjamin  
17 Gallup. We worked together to come up with the  
18 material for his case.

19 Q What websites did you visit in conducting  
20 this research?

21 A I don't remember.

22 Q Can you name a single website that you  
23 visited during the course of conducting research  
24 about the alleged white supremacist hand gesture?

25 A Just Google.

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1 M. Bendick

2 Q How many hours did you spend conducting  
3 this research about the alleged white supremacist  
4 hand gesture?

5 A I don't recall.

6 Q Do you recall dates on which you conducted  
7 this research?

8 A No.

9 Q Did you ever present your research  
10 findings to anybody?

11 A I believe yes, I probably shared something  
12 with labor relations when we were preparing for his  
13 trial.

14 Q Who did you share it with?

15 A Erin Sherrard.

16 Q Did you ever share your research findings  
17 with an individual named Jeffrey Stevens?

18 A No.

19 Q Did you ever share your research findings  
20 with any hearing officer or disciplinary authority  
21 in Mr. Rosati's disciplinary process?

22 A Well, Erin Sherrard was the trial officer.

23 Q Right.

24 A So her -- I guess she would be a hearing  
25 official. So her as I stated.

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1 M. Bendick

2 Q You presented your research findings about  
3 white supremacy to Erin Sherrard during a hearing?

4 A No. Before the hearing when we were  
5 preparing for his statement of facts and his trial.

6 Q Erin Sherrard was the hearing officer?

7 A That's correct.

8 Q Did you testify during the hearing?

9 A I testified during the trial.

10 Q During the trial?

11 A Yes.

12 Q You testified before Erin Sherrard,  
13 correct?

14 A I testified as a witness, correct.

15 Q You testified as a witness for the Long  
16 Island Railroad before Erin Sherrard as the hearing  
17 officer, correct?

18 A That's correct.

19 Q Erin Sherrard also works for the Long  
20 Island Railroad, correct?

21 A Not currently.

22 Q At the time?

23 A Correct.

24 Q At the time of Mr. Rosati's disciplinary  
25 process, Erin Sherrard did work for the Long Island

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1 M. Bendick

2 Railroad, correct?

3 A That's correct.

4 Q At that time what was Erin Sherrard's  
5 title with the Long Island Railroad?

6 A Trial officer, I believe.

7 Q What was her title with the Long Island  
8 Railroad?

9 A I believe she was a trial officer. She  
10 may have had a different title, but I knew her as  
11 the trial officer. She worked for labor relations.  
12 It's a separate department from our department and  
13 they handle the discipline.

14 Q Let me get this straight, you spoke to  
15 Erin -- you prepared with Erin Sherrard for the  
16 hearing at which she was the hearing officer?

17 A Yes. I worked with Erin Sherrard to  
18 present her evidence and worked with her to prepare  
19 for the trial, she's the hearing officer. She  
20 doesn't make the decision on the ultimate  
21 discipline.

22 Q I understand. As a witness -- as a  
23 witness during Mr. Rosati's trial, did you testify  
24 about the alleged white supremacist hand gesture?

25 A I don't remember. It's been a while.

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1 M. Bendick

2 Q Well, you did the research, correct?

3 A Correct.

4 Q You provided the research to Erin  
5 Sherrard, correct?

6 A Correct.

7 Q You testified about it, correct?

8 A I don't remember whether I was questioned  
9 by the union or by Erin. It's been a couple of  
10 years. I don't want to say yes or no. I don't  
11 remember whether it came up in the trial or not  
12 about being questioned. I may have been questioned  
13 about it, I don't know.

14 Q Would it surprise you to know that another  
15 witness for the Long Island Railroad testified in a  
16 deposition that you did indeed testify about the  
17 white supremacist hand gesture during the trial?

18 A No. It wouldn't surprise me nor am I  
19 denying that I did. I don't remember being asked.  
20 I don't remember the full details of the trial.

21 Q I'm not asking you for the details. I'm  
22 asking you yes or no, did you testify about the  
23 alleged white supremacist hand gesture at  
24 Mr. Rosati's trial?

25 MS. PASRICHA: Objection. You can answer.

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1 M. Bendick

2 A Yes, I guess. I mean I don't remember  
3 every question that was asked of me. If somebody  
4 said I did then...

5 Q Were you called as an expert witness at  
6 Mr. Rosati's trial?

7 A I was called as a witness that represents  
8 the company. I was not called as an expert witness.

9 Q Because you had no expertise whatsoever  
10 about the subject, correct?

11 A No. Nobody is calling it as an expert  
12 witness of anything. We don't bring special  
13 witnesses or experts.

14 Q In your opinion did Mr. Rosati make a  
15 white supremacist hand gesture on his social media  
16 page?

17 A Based on the research we did it appears  
18 that he did.

19 Q Did Mr. Rosati ever tell you that he  
20 intended it to be a white supremacist hand gesture?

21 A No.

22 Q Did you ever have a conversation with  
23 Mr. Rosati about the alleged white supremacist hand  
24 gesture?

25 A The day we had his statement of facts we

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1 M. Bendick

2 spoke several times throughout that day. I don't  
3 remember what we spoke about.

4 Q How do you know what Mr. Rosati's state of  
5 mind was when he made that gesture?

6 A I don't.

7 Q You have no idea what he was thinking,  
8 correct?

9 A No.

10 Q All right. I will show you another  
11 exhibit. We will do a screen share.

12 (Bendick Exhibit 3, Marked for Identification.)

13 Okay, Mr. Bendick, I'm showing you  
14 what has been marked as Bendick 3. Do you need a  
15 moment to look at this or do you have a good idea of  
16 what that is?

17 A No. I have a good idea.

18 Q Can we agree that Exhibit 3 -- Bendick 3  
19 is a series of photographs of famous individuals  
20 making the okay hand gesture, correct?

21 A Sure.

22 Q Let's look at the first array of photos.  
23 Do you see the photo of Ronald Reagan?

24 A Yes.

25 Q Okay. What is Ronald Reagan doing in that

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1 M. Bendick

2 photograph?

3 A Smiling.

4 Q What is he doing with his hand?

5 A Giving the okay sign.

6 Q We agree that Ronald Reagan was giving the  
7 okay sign in that photo?

8 A I don't know the content that's related  
9 to -- I don't know the story behind whatever he did  
10 there, but it looks like he's giving an A-OK.

11 Q Just to make things easier because this is  
12 not a visual medium, this is going to be a  
13 transcript. Just for the record I'm going to say we  
14 are talking about the okay hand gesture which the  
15 defendants allege was used by Mr. Rosati as a white  
16 supremacist hand gesture. I'm going to represent  
17 for the record that the gesture that I'm talking  
18 about to Mr. Bendick right now involves placing the  
19 tip of the thumb together with the tip of the  
20 pointer finger forming almost like a circle and the  
21 remaining fingers; the pinky, ring and middle  
22 fingers would be standing straight up.

23 Do you agree with me, Mr. Bendick,  
24 that that's the hand gesture we are talking about?

25 A Yes.



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1 M. Bendick

2 Q Okay. I'm going to refer to that as the  
3 okay hand gesture for the purposes of this  
4 deposition, okay?

5 A Okay.

6 Q In the photograph of Ronald Reagan was  
7 Ronald Reagan making a white supremacist hand  
8 gesture?

9 A I don't know because I don't know the  
10 genesis of when that became affiliated with white  
11 supremacy so maybe at the time when Ronald Reagan  
12 gave that hand gesture, it wasn't affiliated with  
13 white supremacy groups.

14 Q To your knowledge was Ronald Reagan a  
15 white supremacist?

16 A No, I don't know. I don't know him.

17 Q You don't know President Ronald Reagan?

18 A No, unfortunately I don't.

19 Q You never heard of him?

20 A I don't know him. I know who he is. I  
21 don't know him. I don't know if he was a white  
22 supremacist.

23 Q Are you aware of the fact that Ronald  
24 Reagan served eight years in the White House?

25 A Yes.

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1 M. Bendick

2 Q He was not -- he did not earn eight years  
3 in the White House by being a white supremacist,  
4 correct?

5 MS. PASRICHA: Objection.

6 A I don't know.

7 Q You don't know whether Ronald Reagan was a  
8 white supremacist or not?

9 A I don't know Ronald Reagan. I don't know  
10 what he believed. I don't know. He doesn't appear  
11 to be, he didn't appear to be. I don't know. I  
12 can't speak for what he is, I don't know him.

13 Q Let's talk about Barack Obama. Do you see  
14 the next photo?

15 A Yes.

16 Q What is Barack Obama doing in that photo?

17 A Similar symbol as the previous one.

18 Q To your knowledge is Barack Obama a white  
19 supremacist?

20 A Not to my knowledge. I don't know. I  
21 doubt it, but I don't know Barack Obama.

22 Q Right, but Barack Obama was the President  
23 of the United States for eight years, correct?

24 A Correct.

25 Q In the photograph that you're looking at

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1 M. Bendick

2 was he making a white supremacist hand gesture?

3 A He's giving a similar symbol. I don't  
4 know what the premise behind his hand gesture there.  
5 I don't know what he was saying. I don't know what  
6 he was talking about. I don't know anything about  
7 the picture.

8 Q It's highly unlikely that Barack Obama was  
9 giving a white supremacist hand gesture; isn't that  
10 true?

11 A I don't know what year this picture was  
12 taken. Was the okay symbol affiliated with white  
13 supremacy the year this picture was taken, I don't  
14 know.

15 Q You can't answer that question yes or no,  
16 was Barack Obama giving a white supremacist hand  
17 gesture?

18 MS. PASRICHA: Objection.

19 Q We are getting into the sublime here. Was  
20 he giving a white supremacist hand gesture or not?

21 A He's giving an okay symbol. It seems to  
22 be an A-OK.

23 Q The next photograph is of Paul McCartney,  
24 correct?

25 A Correct.

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1 M. Bendick

2 Q What is Paul McCartney doing in the  
3 photograph?

4 A He appears to be giving the same symbol  
5 that you showed me of Ronald Reagan and Barack  
6 Obama. I don't know the premise behind what his  
7 hand symbol is.

8 Q Why is it that you don't know what the  
9 premise is?

10 A I don't know Paul McCartney. I don't know  
11 if he's a white supremacist. He may be one, I don't  
12 know.

13 Q Also, you don't know what Paul McCartney  
14 was thinking at the time, correct?

15 A No. I don't know anything about that  
16 picture. It appears to be A-OK.

17 Q Do you think that Paul McCartney became  
18 one of the most beloved and successful musicians on  
19 the planet by being a white supremacist?

20 MS. PASRICHA: Objection.

21 A I don't know.

22 Q You see the larger photo of Barack Obama?

23 A Yes.

24 Q What is Barack Obama doing in this  
25 photograph?

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1 M. Bendick

2 A He's giving the same symbol that you  
3 showed me in the previous pictures.

4 Q Was this an okay hand gesture or a white  
5 supremacist gesture?

6 A I don't know.

7 Q Because again you don't know what he was  
8 thinking at the time?

9 A I don't know what he was thinking. I know  
10 he was president. I don't know what his beliefs  
11 are.

12 Q The caption under that photograph says  
13 that he's giving an okay gesture, correct?

14 A Yes.

15 Q He has his thumb and his pointer finger  
16 touching to form a square or a circle and then the  
17 remaining three fingers are pointed straight up,  
18 right?

19 A Correct.

20 Q There is a photograph of Joe Biden giving  
21 the okay hand gesture, correct?

22 A Yes.

23 Q Do you know whether Joe Biden was giving  
24 an okay hand gesture or a white supremacist hand  
25 gesture?

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1 M. Bendick

2 A I don't know.

3 Q Because again you don't know what he was  
4 thinking at the time, right?

5 A That's correct.

6 Q It's unlikely it was a white supremacist  
7 hand gesture, correct?

8 A I won't speculate. I don't know Joe  
9 Biden.

10 Q You know who he is?

11 A I know who he is.

12 Q Do you see the final photograph in this  
13 exhibit is Steven Rosati?

14 A Yes.

15 Q What is Steven Rosati doing in this  
16 photograph?

17 A He's giving a similar hand gesture as the  
18 previous pictures.

19 Q Can we agree that Mr. Rosati's hand  
20 gesture appears visually identical to all the other  
21 okay hand gestures of these other famous people?

22 A I would say very similar. I wouldn't say  
23 identical but very similar.

24 Q When you say very similar and not  
25 identical what is different?

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1 M. Bendick

2 A Because his hands are not -- people have  
3 different fingers. They are pointed in different  
4 directions. They have different shapes. It's not  
5 identical.

6 Q Let's do it like this. Every single photo  
7 in this exhibit including Mr. Rosati has the thumb  
8 touching the pointer finger, correct?

9 A Correct.

10 Q And that forms either a square or a  
11 circle, correct?

12 A Correct.

13 Q Every single photograph in this exhibit  
14 has the remaining three fingers pointing straight up  
15 or close to it, correct?

16 A Correct.

17 Q The photo of Mr. Rosati's hand gesture is  
18 substantially similar to the other hand gestures,  
19 correct?

20 A I would say similar.

21 Q Very similar, correct?

22 A Similar.

23 Q What's about it is different?

24 A Like I said, it's different shapes and  
25 things are all the way up, it's similar. Not the

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1 M. Bendick

2 same, it's similar.

3 Q All of the individuals in this exhibit  
4 including Mr. Rosati appear to be making what is  
5 visually identified as the okay hand gesture,  
6 correct?

7 A That's correct.

8 Q It's your contention that Mr. Rosati is  
9 the only one who was intending this to convey white  
10 power?

11 A Mr. Rosati is the only person who was  
12 employed by us and Mr. Rosati was the only person we  
13 were investigating.

14 Q How are those two points relevant to  
15 determining whether his hand gesture was meant to  
16 signify white power?

17 A Repeat the question.

18 Q So you said that Mr. Rosati was the only  
19 person in this photo array that was under  
20 investigation by the Long Island Railroad. How is  
21 that relevant to determine what message he was  
22 sending?

23 A It was also the groups that he was  
24 affiliated with, the Proud Boys. That also made us  
25 affiliate this hand sign with one of the gestures of



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1 M. Bendick

2 a racist gesture and the stuff he was saying on his  
3 social media web pages.

4 Q Okay. So how do you know he was  
5 affiliated with the Proud Boys?

6 A Because he made reference to them on his  
7 social media page.

8 Q Was he member of the Proud Boys?

9 A I don't know what his status with the  
10 Proud Boys was.

11 Q To your knowledge was Steven Rosati a  
12 member of any white supremacist organization?

13 A Not to my knowledge.

14 Q To your knowledge was Steven Rosati a  
15 member of any white power organization?

16 A Not to my knowledge.

17 Q To your knowledge was Steven Rosati a  
18 member of any neoNazi organization?

19 A Not to my knowledge.

20 Q To your knowledge was Steven Rosati a  
21 member of any group advocating the overthrow of the  
22 United States Government?

23 A Not to my knowledge.

24 Q So he had no memberships and he didn't  
25 tell you that this was as white supremacist hand

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1 M. Bendick

2 gesture. How did you know it was a white  
3 supremacist hand gesture?

4 A Because some of the stuff he was  
5 recognized and affiliated with groups on the social  
6 media pages that recognizes as white supremacy hand  
7 signals.

8 Q Can you please be specific? What content  
9 on the social media pages led you to believe that  
10 this was a white supremacist hand gesture?

11 A Mostly the Proud Boys if I remember  
12 correctly.

13 Q What Proud Boys? Please cite the specific  
14 examples. What Proud Boys? What are you talking  
15 about?

16 A I don't have specific examples. It's been  
17 a couple of years, but at the time we considered  
18 this photo to be offensive and we recognized that  
19 it's affiliated with racist hand signs and again we  
20 felt it put the company in bad light and that's the  
21 reason why we went forward with discipline.

22 Q Let's look at the photos. Is Mr. Rosati  
23 wearing a hat?

24 A Yes.

25 Q What is the hat?

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1 M. Bendick

2 A I don't know.

3 Q It's a green hat, right?

4 A It's a camouflage hat.

5 Q It's a camo hat with a blurred logo,  
6 correct?

7 A Right.

8 Q Anything about that hat lead you to  
9 believe that Mr. Rosati was a white supremacist?

10 A No.

11 Q Mr. Rosati appears to be wearing a shirt  
12 or a sweater, correct?

13 A I don't know what he's wearing. It's all  
14 black.

15 Q He's wearing some kind of black shirt,  
16 right?

17 A He's wearing something black. I don't  
18 know.

19 Q Are there any logos or anything on that  
20 shirt?

21 A Not that I can see from this picture.

22 Q Anything about that shirt lead you to  
23 believe that Mr. Rosati was a white supremacist?

24 A I don't see anything right now that leads  
25 me to believe that he's a white supremacist based on

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1 M. Bendick

2 that shirt.

3 Q Anything about Mr. Rosati's face lead you  
4 to believe he's a white supremacist?

5 A No.

6 Q Anything about the social media post  
7 itself that leads you to believe that Mr. Rosati is  
8 a white supremacist?

9 A I don't remember what verbiage went along  
10 with this post.

11 Q Okay. Were you aware of what Mr. Rosati's  
12 ethnicity is?

13 A Am I aware of his ethnicity?

14 Q Were you aware of what his ethnicity was  
15 at the time of the discipline?

16 A Sure. I don't know all -- I know he's a  
17 white male.

18 Q Do you know what his national origin was?

19 A No.

20 Q Did you bother to ask him or to determine  
21 that?

22 A No. That's not an appropriate question  
23 for me to ask.

24 Q It seems like an appropriate question if  
25 you're accusing the man of being a white

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1 M. Bendick

2 supremacist, no?

3 MS. PASRICHA: Objection.

4 A No. It's not an appropriate question for  
5 me to ask. It doesn't matter what he is.

6 Q Was it appropriate for you to determine  
7 that he was a white supremacist without any  
8 evidence?

9 A I didn't determine he was a white  
10 supremacist. We showed proof that he's affiliated,  
11 he recognizes people of white supremacist behavior  
12 and actions. I never said he was a white  
13 supremacist. He was affiliated with groups in the  
14 public. He put the Long Island Railroad MTA in a  
15 bad light. Some of his posts and some of the people  
16 he's affiliated with.

17 Q What proof do you have? You said he was a  
18 not a member of any white supremacist groups.  
19 Please name one shred of proof that you have that he  
20 was a member of a white supremacist organization?

21 A I never said he was a member. I said not  
22 to my knowledge.

23 Q What was your proof? What specific proof  
24 did you have that his state of mind was to convey a  
25 white supremacist hand gesture?

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1 M. Bendick

2 A His posts, the stuff that he was saying,  
3 the stuff he was affiliated with, the groups he was  
4 talking about, the t-shirts he was selling. It's  
5 stuff that we affiliated with a racist white  
6 supremacy group. It went against our policies, our  
7 social media policies, it went against all our  
8 policies. He did not represent the Long Island  
9 Railroad in good light.

10 Q What t-shirts was he selling?

11 A He was selling t-shirts from Clash  
12 Brothers United.

13 Q What is Clash Brothers United?

14 A Clash Brothers United is his company, I  
15 believe.

16 Q What's racist about that?

17 A I don't know. The problem with the Clash  
18 Brothers United t-shirts, he was selling them  
19 without getting approval. He needs to have approval  
20 to work another job.

21 Q But that wasn't my question, that's a  
22 separate issue. You testified that you had proof  
23 that Mr. Rosati was a white supremacist, correct?

24 A I don't remember what I testified.

25 Q Yes or no, did you have proof that

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2 Mr. Rosati was a white supremacist?

3 A I have proof that some of his posts and  
4 his hand gestures are affiliated with white  
5 supremacists. I never said Mr. Rosati is a white  
6 supremacist.

7 Q Yes or no, did you have any proof that  
8 Mr. Rosati was a white supremacist?

9 MS. PASRICHA: Objection.

10 A I have proof that Mr. Rosati was  
11 affiliated with white supremacists groups, his  
12 behavior and actions. Whether he belonged to one I  
13 don't know.

14 Q You had no proof that he was a white  
15 supremacist, correct?

16 A I had no proof that he holds any  
17 membership to any white supremacist groups.

18 Q My question now is different. Yes or no,  
19 did you have any proof that Mr. Rosati was a white  
20 supremacist?

21 A No.

22 Q Yes or no, did you have any proof that  
23 Mr. Rosati intended to convey a white power message  
24 in this photograph?

25 A I don't know what he was trying to convey

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2 here.

3 Q Wait a second, you don't know what he was  
4 trying to convey?

5 A I don't know what he was trying to convey.  
6 All I can say is that particular hand signal is  
7 affiliated with white supremacist racial groups.

8 Q You admit that you have no idea what he  
9 was trying to convey?

10 MS. PASRICHA: Objection.

11 A I don't know what he was saying. I don't  
12 know what he was doing here. I know that his posts,  
13 his comments, his hand signs, all are affiliated  
14 with white supremacy groups.

15 Q What posts were affiliated with white  
16 supremacy groups?

17 A I don't remember specifically.

18 Q Name a single post, please?

19 MS. PASRICHA: Objection.

20 A I don't remember the posts. It's been  
21 years.

22 Q Well, Mr. Rosati was terminated because of  
23 this so I have the right to ask about this. Please  
24 describe for me any and all social media posts that  
25 were used to determine that Mr. Rosati was a white



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2 supremacist?

3 A Mr. Rosati was not terminated because he  
4 was a white supremacist. Mr. Rosati was terminated  
5 because he put the company in bad light and was  
6 affiliated with groups that one would say are white  
7 supremacists. His behavior -- harassing people at  
8 doctors' offices, running around with bullhorns.  
9 These are things that -- he put the company in bad  
10 light. These are the reasons why he was terminated.

11 Q Oh really. Then how come none of these  
12 things were issues for the Long Island Railroad  
13 until after January 6, 2021?

14 MS. PASRICHA: Objection to form. You can  
15 answer.

16 A These issues became -- this became an  
17 issue to the Long Island Railroad because he was  
18 identified as a Long Island Railroad employee in the  
19 media and it put the company in bad light. His  
20 behavior put the company in bad light.

21 Q Being identified in the media is a basis  
22 for termination?

23 A Being identified in the media negatively  
24 is a basis for discipline.

25 Q He was identified in the media in a

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1 M. Bendick

2 negative way for doing what; for attending the  
3 protest on January 6th?

4 A That was one. His social media websites,  
5 his harassment of people going to doctors' offices,  
6 it was a bunch of it. We didn't continue to  
7 investigate him, we left him alone until  
8 January 20th when someone identified him through  
9 social media and tagged the Long Island Railroad.  
10 We had no choice but to begin looking at everything  
11 again.

12 Q What exactly was the problem with his  
13 attendance at January 6th?

14 A He was not charged for being -- he didn't  
15 have an attendance issue for being there. He was  
16 off on his free time on January 6th. The problem is  
17 everything all came together. All his affiliations,  
18 all his posts. For some reason somebody, I don't  
19 know who, tagged us that he was there and then for  
20 some reason based on that, the media got involved  
21 and everything unraveled and people started  
22 investigating and sharing his different web pages  
23 and sites and it became an issue for the MTA. It  
24 put the company in a bad light and we had to address  
25 it.

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2 Q There are people who disagreed with the  
3 fact that Mr. Rosati went to the Capital on January  
4 6th. In other words, there were people who did not  
5 like that, correct?

6 MS. PASRICHA: Objection.

7 A I don't know what people liked or not.

8 MS. PASRICHA: Can I step in for a second?  
9 What are your thoughts on a lunch break? How  
10 much longer do you think we have?

11 MR. PALTZIK: That's fine with me. I have  
12 a hard stop today for personal reasons at 2:15.

13 MS. PASRICHA: Okay.

14 MR. PALTZIK: I don't know. An hour lunch  
15 break makes no sense under these circumstances.

16 MS. PASRICHA: I think we need to take a  
17 break.

18 MR. PALTZIK: Let's break for five minutes  
19 and see where we are.

20 MS. PASRICHA: I have to take a bathroom  
21 break.

22 (Whereupon, a short recess was taken.)

23 BY MR. PALTZIK:

24 Q Mr. Bendick, can you please cite to me one  
25 example of a social media post by Mr. Rosati that

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2 indicated white supremacy to you?

3 A I don't remember the details of his social  
4 media posts.

5 Q Did you prepare for today's deposition?

6 A I did not look at any social media posts  
7 for today's deposition.

8 Q Can you remember a single instance of a  
9 social media post by Mr. Rosati that conveyed a  
10 white supremacy message?

11 A This one is the one that comes to mind,  
12 obviously.

13 Q Any others?

14 A I don't recall.

15 Q Did you interview anyone about  
16 Mr. Rosati's alleged white supremacist affiliations?

17 A No.

18 Q So Mr. Rosati had no membership at any  
19 white supremacist groups, he didn't admit to you  
20 that this was supposed to be a white supremacist  
21 hand gesture and you didn't interview anyone?

22 A I don't know what memberships Mr. Rosati  
23 holds. I did not interview anybody, no.

24 Q Did you have any photographs or any other  
25 evidence of Mr. Rosati engaging in white supremacist

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2 behavior?

3 A I don't recall.

4 Q Well, you talked also about affiliations.  
5 What affiliations are you talking about?

6 A I remember at the time the Proud Boys was  
7 the main group.

8 Q You testified earlier that Mr. Rosati was  
9 not a member of the Proud Boys, correct?

10 A I said I don't know if he's a member. I  
11 don't know his memberships.

12 Q You did not know whether Mr. Rosati was a  
13 member of the Proud Boys or not, did you?

14 A I don't know any membership that  
15 Mr. Rosati belongs to. I'm not aware.

16 Q How can you say he has affiliations if by  
17 your own admission he had no memberships?

18 A I'm saying that the posts he made to the  
19 average person shows affiliations to controversial  
20 and in some cases racial, white supremacist groups.

21 Q What was the specific racial content?

22 A If I remember correctly, this one  
23 specifically was something that people found to be  
24 offensive.

25 Q Did you ever see a social media post by

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1 M. Bendick

2 Mr. Rosati of him attacking a particular racial  
3 group?

4 A Yes.

5 Q What?

6 A I don't remember the details, but I  
7 remember him attacking a specific group using the N  
8 word.

9 Q Really. Mr. Rosati used the N word in a  
10 social media post?

11 A That's correct.

12 Q When did he do that?

13 A I believe it's before he worked here.

14 Q You saw that post?

15 A At the time I saw it. I didn't recall it  
16 until today.

17 Q You're representing to me that you saw a  
18 post with Mr. Rosati using the N word?

19 A That's correct.

20 Q When did you see that post?

21 A I saw it after -- after he was -- we  
22 began -- we took him out of service. We began the  
23 process, the disciplinary process with him.

24 Q You're saying that was part of your  
25 decision?

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2 A No.

3 Q It wasn't?

4 A No, because he didn't work for us at the  
5 time. It didn't hold any water for us.

6 Q With regards to any posts that were made  
7 at the time Mr. Rosati was working for the Long  
8 Island Railroad, what did hold water for you?

9 A I know this particular one -- obviously  
10 this one is mentioned in the trial office. Again,  
11 the issue of harassing people going to the doctor,  
12 bothering people on Sunrise Highway was something we  
13 took exception with. Again it's something -- all  
14 these posts offended a lot of people, we believe.  
15 It put the company in bad light with having one of  
16 our employees be affiliated with these types of  
17 material.

18 Q How do you know that a lot of people were  
19 offended?

20 A I don't know if a lot of people -- we were  
21 trying to prevent people from being offended.

22 Q How do you know how many people were  
23 offended?

24 MS. PASRICHA: Objection.

25 A I don't know.

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2 Q So people were offended but you don't know  
3 how many people were offended?

4 MS. PASRICHA: Objection.

5 A I don't know how many people were  
6 offended, who was offended. Again, we handled the  
7 situation in the way we did to prevent people from  
8 being offended if they were offended. He put the  
9 company in bad light. We felt we couldn't have a  
10 person working for us who put the company in bad  
11 light and we needed to discipline him.

12 Q But how do you determine that the company  
13 was put in a bad light? Is it because some people  
14 who were Democrat were complaining about Mr. Rosati?

15 A I don't know the political affiliations of  
16 people who complained about him and what they were  
17 or who they were. I can't name specific people. He  
18 was recognized on social media, he was recognized, I  
19 don't remember if the Daily News or other media  
20 organizations, of being a Long Island Railroad  
21 employee and all his behavior was exposed at the  
22 time.

23 Q Can you name a single person who  
24 complained about Mr. Rosati?

25 A No.



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2 Q Why not?

3 A Because I don't handle customer  
4 complaints. That's not my job. I don't handle it.  
5 I don't know if anyone complained. That's not my  
6 job.

7 Q You met with Erin Sherrard and you  
8 prepared to testify as a witness against Mr. Rosati,  
9 correct?

10 A Correct.

11 Q Okay. Did you think it might have been a  
12 good idea for you to determine who made the  
13 complaints?

14 MS. PASRICHA: Objection.

15 A No. It's not my job to investigate who  
16 made complaints. I don't handle customer  
17 complaints.

18 Q Okay. These were anonymous complaints?

19 A I know there was anonymous posts on  
20 Twitter saying stuff about asking us to look into  
21 him. I guess how Twitter works is once someone says  
22 something, everybody chimes in and has something to  
23 say. Did I keep track of the posts, I did not.

24 Q One moment, please.

25 What other affiliations did you learn

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about besides this alleged Proud Boys affiliation?

A I don't recall any other ones.

Q You talked about harassing people at a doctor's office, was it?

A I believe it was a doctor's office, some kind of clinic. They would go with bullhorns and yell at people who went for Covid shots and Covid tests and stuff like that.

Q When did you see that video?

A During the investigation.

Q Did you watch any other videos of Mr. Rosati during the investigation?

A I remember at the time when he was charged with subterfuge for not being at work, we looked at the video of him, I believe it was on Sunrise Highway, where he was yelling at people passing by with Biden bumper stickers and running at cars and we charged him then for calling in sick for work without being sick.

Q I'm going to show you another exhibit.

(Bendick Exhibit 4, Marked for Identification.)

Take a look at this for a moment, please, Mr. Bendick. Have you ever seen this before?

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2 A Yes, that looks familiar. I think we used  
3 that during the trial.

4 Q If I represented to you that this is a  
5 printout of a web page called Okay Hand Gesture from  
6 the Antidefamation website, do you agree?

7 A I don't remember what website we got it  
8 from. I do recognize the document.

9 Q Is this one of the documents that you  
10 researched when you were preparing for Mr. Rosati's  
11 hearing?

12 A I believe it looks familiar.

13 Q This is a summary of the history and usage  
14 of the okay hand gesture as it appears on the  
15 Antidefamation website correct?

16 A Appears to be, yes.

17 Q I'm going to ask you to read a couple of  
18 portions of it. Can you please read the first  
19 paragraph?

20 A The okay hand gesture in which the thumb  
21 and index finger touch while the other fingers of  
22 the hand are held out stretch is an obvious and  
23 ancient gesture that has arisen in many cultures  
24 over the years with different meanings.

25 Q Okay. So have you ever used the okay hand

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2 gesture in your life?

3 A Probably. I don't remember specifically.

4 Q Did you ever understand it to mean white  
5 power or did you use it as the okay hand gesture?

6 A I used it as an okay hand gesture.

7 Q Were you intending to convey a white  
8 supremacist message?

9 A No.

10 Q Are you a white supremacist?

11 A No.

12 Q You used this okay hand gesture in your  
13 life, haven't you?

14 A Sure. Based on this research I don't use  
15 it anymore. I had no idea it was affiliated with  
16 anything like this. I wouldn't have made a social  
17 media post doing it.

18 Q Please read right here. There is one line  
19 starting with use. Can you please read that?

20 A Use of the okay symbol in most contexts is  
21 entirely insincuous (sic) and harmless.

22 Q Use of the okay symbol in most contexts is  
23 entirely innocuous and harmless, correct?

24 A My bad, yes.

25 Q Do you agree with that statement?

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2 A I agree that's what it says.

3 Q This was your research, correct?

4 A Correct.

5 Q You researched the okay gesture on the ADL  
6 website, correct?

7 A Correct.

8 Q Please read the next paragraph starting  
9 with in 2017?

10 A In 2017, the okay hand gesture acquired a  
11 new and different significance thanks to a hoax by  
12 members of website 4chan to falsely promote the  
13 gesture as a hate symbol claiming that the gesture  
14 represented the letters WP for white power. The  
15 okay gesture hoax was merely the latest in a similar  
16 series of similar 4chan hoaxes using various  
17 innocuous symbols. In each case, the hoaxers hoped  
18 that the media and liberals would overreact by  
19 condemning a common image as a white supremacist.

20 Q Okay. So based on this paragraph, the  
21 okay hand gesture was the subject of an online hoax,  
22 correct?

23 A Yes.

24 Q This idea that the okay hand gesture was a  
25 white supremacist hand gesture, this wasn't -- it

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2 wasn't even real, it was a hoax, correct?

3 A I guess what we are reading here it's a  
4 hoax, but nonetheless people who don't do any  
5 research or look into it affiliate it with a racist  
6 white supremacist hand symbol.

7 Q Based on the fact that it's a hoax, we  
8 agree it was a hoax, correct?

9 MS. PASRICHA: Objection.

10 A This is one person's opinion but it says  
11 here it's a hoax. I'm not going to agree it's a  
12 hoax. People believe it to be what it says, they  
13 affiliate it with it.

14 Q If you make an okay hand gesture and  
15 people believe that it was white supremacist, you  
16 can't control what people believe, correct?

17 A No. I can't control what people believe.

18 Q You have no control whatsoever about what  
19 people believe about you, correct?

20 A That's correct.

21 Q Steven Rosati didn't have control over  
22 what people believed about him, correct?

23 MS. PASRICHA: Objection.

24 A His material that he made, the videos and  
25 stuff that was affiliated with put the company in

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2 bad faith. He could have controlled it by removing  
3 any affiliations, all his videos. He never removed  
4 any affiliation to Long Island Railroad so he could  
5 have controlled what people thought about him in his  
6 affiliation.

7 Q You, Mr. Bendick, you can't control what  
8 people think about you but Mr. Rosati can?

9 A I can control by the things I post and put  
10 about myself to the public.

11 Q You just testified earlier that you can't  
12 control how people respond?

13 A I can't control what people think of me,  
14 but I can't control by not posting things online and  
15 putting things on social media.

16 MR. PALTZIK: Off the record.

17 (Whereupon, an off-the-record discussion was held.)

18 Q I would like you to please read where it  
19 says, The overwhelming usage.

20 A The overwhelming usage of the okay hand  
21 gesture today is still its traditional purpose as a  
22 gesture signifying ascent or approval.

23 Q That's fine. So the overwhelming usage of  
24 the okay hand gesture is that it is okay, not white  
25 supremacist, correct?

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2 A Based on the opinion of this document.

3 Q Despite that, you concluded that  
4 Mr. Rosati was making white supremacist hand  
5 gestures?

6 A We did not conclude that Mr. Rosati was  
7 making a white supremacist statement. We concluded  
8 that the statements in his posts and everything he  
9 was doing was putting the company in bad light and  
10 the okay symbol is affiliated with white  
11 supremacist. Whether that's a hoax, whether it to  
12 be true or not, it's affiliated with white  
13 supremacist groups.

14 Q Actually, no. It's affiliated with making  
15 the okay sign, correct?

16 MS. PASRICHA: Objection.

17 A One would say it's affiliated with both.

18 Q No. You just read here that the  
19 overwhelming usage of the gesture is for the  
20 traditional purpose of signifying okay, right?

21 A I read that that's correct, but what I say  
22 here in this room doesn't control what people think  
23 when they see the okay symbol.

24 Q Let's go down again. Can you please read  
25 the last paragraph of this exhibit?



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2 A Because of the traditional meaning of the  
3 okay hand gesture as well as other usages unrelated  
4 to white supremacy, particular care must be taken  
5 not to jump to conclusions about the intent behind  
6 someone who had used the gesture.

7 Q You jumped to a conclusion here, didn't  
8 you?

9 MS. PASRICHA: Objection.

10 A If Mr. Rosati never posted anything else  
11 and just posted this A-OK symbol, I doubt we would  
12 be sitting here today.

13 Q We are sitting here today and Mr. Rosati  
14 lost his job because the Long Island Railroad  
15 determined that he was making a white supremacist  
16 hand gesture, correct?

17 A The Long Island Railroad determined that  
18 he was putting the company in bad faith by several  
19 of his behaviors that he displayed online.

20 Q The Long Island Railroad determined that  
21 he was making a white supremacist hand gesture,  
22 correct?

23 A He was affiliated -- the Long Island  
24 Railroad determined that that gesture was affiliated  
25 and recognized as something that could be considered

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2 a white supremacist symbol.

3 Q People can believe anything they want,  
4 correct?

5 MS. PASRICHA: Objection.

6 A Yes.

7 Q So if I waived at you, you could believe  
8 that I meant something else, correct? You could  
9 believe whatever you want, correct?

10 A You waiving at me here in this room  
11 doesn't offend anybody, doesn't affect anybody.  
12 This gentleman was recognized by the media and his  
13 posts and all of his material was to the public and  
14 once again, he put the company in bad faith.

15 Q What do you mean recognized by the media?  
16 What expertises does the media have?

17 A I don't know what expertise the media has.

18 Q What is the significance of being  
19 recognized by the media?

20 A He was recognized by the media as a Long  
21 Island Railroad employee who has giving hand signals  
22 that could be affiliated and have been affiliated  
23 with white supremacist groups, his behavior, the way  
24 he was harassing people with a megaphone at clinics  
25 where they were getting testing and shots or

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2 whatever and all his other posts put the company in  
3 bad light.

4 Q You testified that there were different  
5 contextual clues that Mr. Rosati was making a white  
6 supremacist hand gesture, correct?

7 A I said that the hand gesture that  
8 Mr. Rosati gave in this post, it could be affiliated  
9 and recognized as a white supremacist group.

10 Q I'm asking you what your evidence for that  
11 was?

12 A The evidence -- there is no evidence. The  
13 evidence is our concern is that the customers and  
14 our employees affiliate that sign, could affiliate  
15 that sign with a white supremacist group and we  
16 couldn't have that.

17 Q You said the quiet part out loud. You  
18 said there was no evidence. We agree there was no  
19 evidence?

20 MS. PASRICHA: Objection.

21 A I don't know what Mr. Rosati was thinking  
22 when he made the posts. All I know is that it was  
23 brought to our attention and it's considered to be a  
24 white supremacy group when we did some research. It  
25 could be affiliated with a white supremacist group.

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2 Q You just testified that there was no  
3 evidence that it was a white supremacist gesture,  
4 correct?

5 A Nor was there any evidence that it wasn't.

6 Q Correct. There was no evidence one way or  
7 the other, correct?

8 A No. We don't know what he was thinking in  
9 the photo.

10 Q So then why was that a basis for  
11 discipline if there was no evidence that it was a  
12 white supremacist hand gesture?

13 A This post is not the only basis of his  
14 discipline. It was one of them.

15 Q We agree on that. We are talking about  
16 this basis only. If there was no evidence that this  
17 was a white supremacist hand gesture, why was  
18 Mr. Rosati the subject of discipline for the hand  
19 gesture?

20 A Because the hand gesture, whether you  
21 agree with it or not, is affiliated with a white  
22 supremacist group.

23 Q No, it isn't. It was a hoax.

24 MS. PASRICHA: Objection.

25 Q It was a hoax; was it not?

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A I don't know. One document says it's a hoax. I don't know the genesis of this hand sign. I know that it's affiliated with white supremacist groups.

Q Please name for me the white supremacist group that this okay hand gesture is affiliated with?

A I don't know. I don't know particular white supremacist groups.

Q You can't name a single white supremacist group that this okay hand gesture is actually associated with, can you?

A I can name a white supremacist group, the KKK, I guess. I don't know if they are affiliated with this sign.

Q You can't name a single white supremacist group that is associated with the okay hand gesture, correct?

A Besides the KKK, I wouldn't be able to give you a name of any white supremacist group. I'm not familiar with white supremacist groups.

Q I would like my question repeated and answered; yes or no?

MR. PALTZIK: Can we have my last question

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1 M. Bendick

2 read back, please?

3 (Whereupon, the referred to question was read back  
4 by the reporter.)

5 MS. PASRICHA: Objection.

6 A No.

7 Q Was Mr. Rosati a member of the KKK?

8 A I don't know Mr. Rosati's memberships.

9 Q You said that rather than having any proof  
10 that Mr. Rosati was a member of a white supremacist  
11 organization or that he was a white supremacist, the  
12 discipline on this issue was based on how members of  
13 the public felt?

14 A The genesis of the discipline was based on  
15 the fact that he put the company in bad light,  
16 whether it be the thousands of customers that ride  
17 our trains or the thousands of employees who we  
18 employ.

19 Q It was based on their opinion that it was  
20 white supremacist, I'm trying to understand?

21 A I don't know anybody's particular opinion.  
22 All I can say at the time is the stuff he was  
23 posting whether it be the hand signal, the stuff he  
24 did with the clinics, put the company in bad light  
25 all of it together as a whole and that's why he

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2 disciplined. The company has a social media policy  
3 where you can't put the company in bad light which  
4 he did.

5 Q He put the company in bad light by making  
6 an okay hand gesture?

7 A He put the company in bad light by making  
8 a symbol that could be affiliated. I can't control  
9 what people believe or what they know, but we do  
10 know that people affiliate that hand sign as a white  
11 supremacist hand sign.

12 Q Who though?

13 MS. PASRICHA: Objection.

14 A I don't know who.

15 Q You don't know who affiliated it with  
16 white supremacists?

17 A I don't know who does and who doesn't. I  
18 know that people can, people do.

19 Q Do you know of any particular people who  
20 had a problem with Mr. Rosati's okay hand gesture?

21 A I can't name a specific individual.

22 Q You have no idea who had a problem with  
23 Mr. Rosati's okay hand gesture?

24 A No.

25 Q If you don't know who had a problem with

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2 Mr. Rosati's hand gesture, how do you know he was  
3 putting the Long Island Railroad in a bad light with  
4 that post?

5 A His previous posts was recognized through  
6 social media, first through Twitter. He was  
7 recognized as a Long Island Railroad employee and  
8 then after that, all his other posts was kind of  
9 discussed and being talked about. He was being  
10 affiliated as a Long Island Railroad employee doing  
11 things and saying things that we find would offend  
12 our riding public and our employees.

13 Q Well is going to a Covid testing center  
14 and talking to people with vaccines, is that white  
15 supremacy?

16 MS. PASRICHA: Objection.

17 A I'm not familiar with what white  
18 supremacists do during their normal course of  
19 business.

20 Q What were the other clues in his social  
21 media posts that he was a white supremacist?

22 A We didn't affiliate anything he was doing  
23 in terms of going to those doctors' offices or  
24 whatever as anything related to white supremacy.

25 Q Oh. There was nothing else in his social



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2 media posts about white supremacy?

3 A I remember that there was a lot of talk of  
4 the Proud Boys. Without being an expert, I know  
5 that's considered to be somewhat affiliated with  
6 white supremacist groups.

7 Q What else?

8 A That's all I can recall.

9 Q The entire basis for you concluding that  
10 this was a white supremacist hand gesture was this  
11 supposed affiliation with the Proud Boys?

12 MS. PASRICHA: Objection.

13 A And the hand gesture.

14 Q We know that, the hand gesture itself.  
15 I'm saying besides the hand gesture and this alleged  
16 Proud Boys affiliation, did you have any other proof  
17 in the social media posts of Mr. Rosati that he was  
18 a white supremacist?

19 A I don't recall having any other proof.

20 Q You have zero evidence; isn't that true?

21 MS. PASRICHA: Objection.

22 A I don't recall. It's been some time.

23 Q You just came to your own conclusion about  
24 whether it was a white supremacist gesture, correct?

25 A I never came to a conclusion. Again, the

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2 basis of our issue was that we figured people, the  
3 public, our riding public, our customers, our  
4 employees, affiliate this type of behavior and these  
5 symbols with white supremacist groups. I never came  
6 to any conclusion whether or not Mr. Rosati was a  
7 white supremacist.

8 Q Well wouldn't that be critical to  
9 determining whether or not the gesture was a white  
10 supremacist gesture?

11 A Whether or not -- he was affiliated -- the  
12 gesture is affiliated. Whether we agree with it or  
13 not, it's affiliated as a white supremacist gesture.  
14 I can't control what everybody thinks. Our main  
15 concern is that this gesture, along with the several  
16 other posts he made, put the company in bad light.

17 Q What were the other posts?

18 A We talked about the ones where he was at  
19 the clinics talking to people, yelling at people  
20 with a megaphone, calling them sheep. There was the  
21 one on Sunrise Highway where he was disciplined for  
22 not being at work when he was rallying on Sunrise  
23 Highway harassing people driving by, those posts.  
24 And the posts with the Long Island Railroad post  
25 after I told him he needed to take them down and he

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2 never took them down. Those were issues as well  
3 where he was making videos in a Long Island Railroad  
4 uniform and on Long Island Railroad property when I  
5 asked him to take it down.

6 Q Those were only issues after January 6,  
7 2021, correct?

8 A As I mentioned earlier, after I sat down  
9 with Mr. Rosati in October we considered the case to  
10 be closed. Up until he was on News 12 harassing  
11 customers -- while he was harassing people driving  
12 by on the street where he was supposed to be  
13 working. That's when it became an issue again and  
14 then after that, we still did not actively pursue,  
15 follow or investigate Mr. Rosati because I do have  
16 1,500 other employees and he could not take up all  
17 of our time.

18 After January 6th when he was  
19 identified as a Long Island Railroad conductor being  
20 at the Capital, that's when we went full force  
21 forward investigating Mr. Rosati.

22 Q What was the specific issue with the video  
23 about the Covid testing center?

24 A It didn't put -- it put the company in bad  
25 light. The company recognized Covid as something

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2 that was a real substance and we believed in testing  
3 and we believed in inoculations and it did not look  
4 good for the company that he was out there yelling  
5 at people on megaphones, a Long Island Railroad  
6 conductor yelling at people at clinics for getting  
7 testing for a disease which I don't think he  
8 believed to be real.

9 Q You're speculating against his state of  
10 mind, correct?

11 A No. In his videos he would say this is a  
12 lie, this is not real, the government is lying to  
13 you.

14 Q The Long Island Railroad disagreed with  
15 the content of Mr. Rosati's social media posts about  
16 Covid, correct?

17 MS. PASRICHA: Objection.

18 A The Long Island Railroad disagreed with  
19 all Mr. Rosati's postings about his behavior and how  
20 he's affiliated with the Long Island Railroad. Once  
21 again, he put the Long Island Railroad in a bad  
22 light.

23 Q The Long Island Railroad disagreed with  
24 the content of Mr. Rosati's social media posts,  
25 correct?

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2 MS. PASRICHA: Objection.

3 A I don't know if they disagreed with all of  
4 them. They disagreed with some of them. I can't  
5 speak for the Long Island Railroad as a whole. I  
6 know that we charged him with the social media  
7 policy, he was recognized as a Long Island Railroad  
8 employee, he put the company in bad light, and he  
9 was disciplined for it, one of the things he was  
10 charged with.

11 MR. PALTZIK: How about a 15 minute break?

12 MS. PASRICHA: That works for us, sure.

13

14 (Luncheon recess: 1:13 p.m.)

15 \*\*\*

16 (Afternoon session: 1:37 p.m.)

17

18 M I C H A E L B E N D I C K, resumed,  
19 having been previously duly sworn, was examined  
20 and testified further as follows:

21 EXAMINATION BY

22 MR. PALTZIK: (Continued)

23 Q Mr. Bendick, I'm going to show you another  
24 exhibit. Do you see this?

25 (Bendick Exhibit 5, Marked for Identification.)

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2 It's an email from Benjamin Gallup to  
3 you and Erin Sherrard on January 29th. It's about a  
4 t-shirt. It's about a shirt that Mr. Rosati was  
5 either wearing or promoting; do you see it?

6 A Yes.

7 Q Do you remember what this email was about?

8 A It looks familiar. Maybe it was the  
9 t-shirt he was selling, maybe. I don't remember.

10 Q It says, Rosati, and then a curse word and  
11 then Antifa shirt. Rosati F%CK Antifa shirt; you  
12 see that?

13 A Yes.

14 Q Was this a factor in Mr. Rosati's  
15 termination?

16 A Without seeing the other emails if there  
17 was any other it's difficult for me to say. I know  
18 that he never informed the company that he had  
19 outside employment or an outside business and that's  
20 an issue with the MTA as well. That's against the  
21 New York State ethics policies and stuff like that.  
22 That may have been related to that. I don't  
23 remember the content that surrounds that email.  
24 It's difficult for me to...

25 Q Are you familiar with Antifa?

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2 A No. I have heard of them, but I'm not  
3 familiar with them what they are about.

4 Q To your knowledge what is Antifa?

5 A I don't know what they are.

6 Q It's your testimony that you never heard  
7 of them?

8 MS. PASRICHA: Objection.

9 A I have heard of them. I don't know what  
10 they stand for. I don't know if it's an acronym or  
11 what they stand for.

12 Q Did Mr. Rosati ever make any social media  
13 posts critical of Antifa?

14 A Yes, we see that, sure. I remember him  
15 saying stuff about Antifa. I don't know what Antifa  
16 is. I'm not a good social media person. I don't  
17 spend a lot of time on social media. I don't get  
18 involved in this stuff.

19 Q I would like to go back to you testified  
20 earlier about Clash Brothers. Do you remember we  
21 were talking about that?

22 A That's correct, yes.

23 Q What is Clash Brothers?

24 A Clash Brothers United was his website  
25 where I believe he sold t-shirts.

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2 Q Do you know what t-shirts he was selling?

3 A I don't remember the exact logos on them.

4 Q When did you become aware of them?

5 A At the time we were investigating the  
6 discipline in the beginning of '21.

7 Q You weren't aware of Clash Brothers prior  
8 to this?

9 A No.

10 Q How did you become aware of it?

11 A I just -- basically the same as everything  
12 else. People talking about it online. Once we  
13 started looking at his posts again after we started  
14 investigating, we saw references to it.

15 Q I will mark this as Bendick 6.

16 (Bendick Exhibit 6, Marked for Identification.)

17 There is a Notice of Trial here. Do  
18 you see this?

19 A Yes.

20 Q This related to Clash Brothers United?

21 A Uh hum.

22 Q Is this separate -- I'm simultaneously  
23 just showing you the earlier exhibit, the other  
24 Notice of Trial. There was a Notice of Trial about  
25 Unfiltered Conservative and then there is this



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2 separate Notice of Trial. Why were there separate  
3 Notices of Trial?

4 A It could have been -- I don't remember  
5 exactly why, but maybe we didn't learn about this  
6 until after the fact and then we decided to charge  
7 him after we sent the other. We have to get trial  
8 charges out in a certain period of time. If we  
9 don't get them out, we can't charge the employee as  
10 per their labor agreements.

11 Q These have the same date, correct?

12 A Yes.

13 Q It wasn't held back, they were filed on  
14 the same date, correct?

15 A I have to see the date.

16 Q They are both January 29?

17 A Yes, they were done at the same time.

18 Q Why were they done separately?

19 MS. PASRICHA: Objection. If you know.

20 A I don't know.

21 MR. PALTZIK: Off the record.

22 (Whereupon, an off-the-record discussion was held.)

23 BY MR. PALTZIK:

24 Q Mr. Bendick, how do you define outside  
25 employment under the dual employment of the Long

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2 Island Railroad?

3 A I guess it's anywhere where you are making  
4 money outside the work of the Long Island Railroad.  
5 Any job you have or any type of business you have.

6 Q Do you know how much money Mr. Rosati was  
7 making?

8 A No.

9 Q Do you know how much money he was making  
10 with Clash Brothers?

11 A No.

12 Q How come he was disciplined?

13 A Because he had outside employment. Anyone  
14 who has a business outside without filling out  
15 letting the company know about it without getting  
16 permission is a violation of the policy.

17 Q Is there a certain monetary threshold?

18 A I don't know. I don't think so.

19 Q How is it that he was disciplined if there  
20 was no detail about this?

21 A Because when we asked him in the statement  
22 of facts if it was his company, at first he said no  
23 because we only said Clash Brothers, but then when  
24 we asked him about Clash Brothers, we realized we  
25 left the United off. When we asked him about Clash

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2 Brothers United, I believe he told us it was his  
3 company. We had to give him a direct order to tell  
4 us whether or not it was his company.

5 Q Did you ever speak to anyone in the Long  
6 Island Railroad diversity department about  
7 Mr. Rosati?

8 A I don't recall speaking to diversity.

9 Q Diversity is the department that received  
10 the anonymous complaints, correct?

11 A I don't know if diversity received  
12 anonymous complaints. A lot of the complaints were  
13 given to us by Twitter. Everybody saw it.

14 Q There were people on Twitter who disagreed  
15 with Mr. Rosati's social media posts?

16 A There were people -- the biggest thing  
17 about Twitter is it identified him as a Long Island  
18 Railroad employee.

19 Q They were complaining about his social  
20 media posts, correct?

21 A People were offended by him, correct.

22 Q There were people who were either offended  
23 by Mr. Rosati's social media posts or who disagreed  
24 with his social media posts, correct?

25 A What I can say is we felt that the social

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2 media posts put the company in bad light. I don't  
3 know how many people were offended, how many people  
4 responded, how many people complained, I wasn't  
5 privy to that.

6 Q Mr. Rosati -- his disciplinary process  
7 started because people were upset by his social  
8 media posts, correct?

9 A His disciplinary process, which it wasn't  
10 really discipline, was brought to our attention by  
11 word of mouth about him posting stuff on social  
12 media while working. We sat with him and we gave  
13 him a verbal warning to take his stuff down and stop  
14 doing things and affiliating himself with the Long  
15 Island Railroad which we thought was good, which he  
16 didn't do until later on we found out he was on  
17 News 12 while he was supposed to be working he was  
18 out sick.

19 Q That's not what I'm asking. I'm talking  
20 about the January 2021 process. That process  
21 started because there were people who were  
22 supposedly offended by Mr. Rosati's social media  
23 posts, correct?

24 A It was started when people went to Twitter  
25 and I used the word before, they liked or what's the

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2 word -- he tagged -- they tagged Long Island  
3 Railroad with Rosati on his Twitter and pictures of  
4 him at the Capital. Again, the ball unraveled. At  
5 that point we started doing research and the stuff  
6 was online.

7 Q How is it relevant that -- people  
8 disagreed with his social media posts, correct?

9 A We assume that people -- we felt that  
10 Mr. Rosati's social media posts put the company in  
11 bad light.

12 Q People were offended by his social media  
13 posts, correct?

14 MS. PASRICHA: Objection. Asked and  
15 answered.

16 A I never spoke to anybody who particularly  
17 said they were offended. I did not speak to  
18 anybody.

19 Q The complaints that were received by the  
20 Long Island Railroad and there were complaints,  
21 correct?

22 A I did not see any complaints. I know  
23 comments were made on Twitter, but I did not see any  
24 complaints. I don't get complaints.

25 Q You were told that the complaints existed?

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2 A We believed -- the company believed that  
3 his posts put the company in bad light. It opened  
4 up the company to negative press.

5 Q How, if at all, are the complaints  
6 relevant to the discipline?

7 A I don't remember ever discussing specific  
8 complaints. I know the stuff he was posting, the  
9 January 6th, all that stuff put the company in bad  
10 light.

11 Q You keep using the phrase bad light and  
12 the phrase bad faith. Bad light and bad faith in  
13 whose determination?

14 A It violated the social media policy that  
15 he was charged with. You're not allowed to put  
16 things on social media that makes the company look  
17 bad and that's what he was terminated for.

18 Q Who thought it made the company look bad?

19 A Through the trial -- I don't know. The  
20 company as a whole believed it made the company look  
21 bad.

22 Q It made the company look bad because he  
23 disagreed with the company's positions on certain  
24 issues, correct?

25 MS. PASRICHA: Objection.

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2 A I don't remember him talking about the  
3 company specifically being an issue. Again, the  
4 stuff that he did and the stuff that he posted and  
5 once, he was identified as a Long Island Railroad  
6 conductor, did not look good for the company.

7 Q Mr. Rosati disagreed with the company's  
8 Covid policies, correct?

9 MS. PASRICHA: Objection. You can answer.

10 A That's correct. He was not comfortable  
11 with the mask policy, he disagreed with the mask  
12 policy. He had to be spoken to many times because  
13 we did receive complaints that he wasn't wearing his  
14 mask, but we received a lot of complaints about  
15 people not wearing masks. At first we would go and  
16 talk to people. That wasn't the Long Island  
17 Railroad's position. That was the FRA made that a  
18 mandate and the state made that a mandate. It  
19 wasn't a Long Island Railroad policy.

20 Q I'm asking you did the Long Island  
21 Railroad and Mr. Rosati disagree about Covid  
22 policies?

23 MS. PASRICHA: Objection.

24 A I don't know what Mr. Rosati felt about  
25 Covid policies. I don't remember seeing anything

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2 related to the Long Island Railroad and him saying  
3 about the Long Island Railroad. I do remember him  
4 talking about things in general, testing and masks  
5 and inoculations and all that stuff. I don't know  
6 how he felt about Long Island Railroad policies. I  
7 don't know.

8 Q Right, but Mr. Rosati's opinion about mask  
9 mandates and Covid policies in general, it was  
10 different than the official position of the Long  
11 Island Railroad, correct?

12 A He did he not want to wear a mask.

13 Q Again, I asked whether his viewpoints were  
14 different than the Long Island Railroad's viewpoints  
15 on the subject of Covid, correct?

16 MS. PASRICHA: Objection.

17 A I never spoke to him about his viewpoints.  
18 I never talked to him that way.

19 Q There was a video of him at a Covid  
20 testing center, correct?

21 A Correct.

22 Q In that video he is criticizing people for  
23 getting their Covid shots and Covid tests, correct?

24 A Yes.

25 Q The Long Island Railroad disagreed with



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2 that, correct?

3 MS. PASRICHA: Objection.

4 A The Long Island Railroad disagreed with  
5 the fact that it did not like the fact that it put  
6 the company in bad light.

7 Q How did it put the company in a bad light?

8 A Because the gentleman was at Covid sites  
9 harassing people with a megaphone.

10 Q I believe he was at Covid sites expressing  
11 his viewpoint about the Covid situation, correct?

12 MS. PASRICHA: Objection.

13 Q You can answer.

14 A I don't know what he was -- I don't  
15 recall.

16 Q Mr. Rosati's viewpoint was problematic for  
17 the Long Island Railroad, correct?

18 MS. PASRICHA: Objection.

19 A Mr. Rosati's posts and behavior put the  
20 company in a bad light.

21 Q That behavior included the protests at a  
22 Covid testing center, correct?

23 A That was one of the factors.

24 Q What specifically about his behavior was  
25 problematic?

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2 A I don't think it looked good for a Long  
3 Island Railroad employee to be yelling at people on  
4 a megaphone. Whatever he believed in at Covid  
5 testing sites, it put the company in bad light.

6 Q Was he terminated in part because of  
7 yelling at people at a Covid testing center?

8 A No. He was terminated because he violated  
9 the social media policy, he violated the policies in  
10 terms of the working environment. All those things  
11 in the trial notice as well as dual employment.

12 Q Right, but what specifically about his  
13 conduct at the testing center violated Long Island  
14 Railroad policies?

15 A Well again, his behavior and posting on  
16 social media which is the social media policy put  
17 the company in bad light.

18 Q When he was at the Covid testing center  
19 protesting, he was expressing his viewpoint,  
20 correct?

21 MS. PASRICHA: Objection.

22 A At the time, yes. At the time nobody knew  
23 he was a Long Island Railroad employee. It wasn't  
24 an issue, nobody was looking, it wasn't an issue for  
25 us at the time. We thought we handled the

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2 situation, we tried to move on and he continued.  
3 Once he was recognized as a Long Island Railroad  
4 employee in January, it became something that we  
5 felt we needed to address because it put the company  
6 in bad light.

7 Q What specifically about the protesting at  
8 the Covid testing center put the company in a bad  
9 light?

10 A Just the actual behaviors.

11 Q What behaviors?

12 A Aggressive behavior, yelling at people  
13 with a megaphone.

14 Q Yelling at people on a megaphone, that was  
15 one of the contributing factors to his discipline?

16 A One of them.

17 Q When he was yelling on the megaphone, he  
18 was yelling his viewpoints about Covid testing,  
19 correct?

20 MS. PASRICHA: Objection.

21 Q One of the things he was yelling at the  
22 people at the Covid testing center, he was yelling  
23 his viewpoints about Covid to them, correct?

24 A He was insulting the people as well  
25 calling them names, taunting them.

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2 Q How was he insulting them?

3 A Calling them sheep.

4 Q What else was he calling them?

5 A I don't remember specifically. I remember  
6 that term.

7 Q This protesting was a problem for the Long  
8 Island Railroad, correct?

9 MS. PASRICHA: Objection.

10 A It became a problem when he was identified  
11 as a Long Island Railroad and put the company in a  
12 bad light, especially when he loaded it up to social  
13 media which violated our social media policy.

14 MR. PALTZIK: Give me 30 seconds off the  
15 record.

16 (Whereupon, an off-the-record discussion was held.)

17 BY MR. PALTZIK:

18 Q What were the specific social media posts  
19 that put the Long Island Railroad in a bad light?

20 MS. PASRICHA: Objection.

21 A I would say the social media posts when  
22 Mr. Rosati was identified as a Long Island Railroad  
23 conductor being at the Capital riots and it went  
24 backwards from there.

25 Q Which post was that that identified him as

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2 being at the Capital?

3 A I don't remember the specific post. I  
4 know it was somebody, an anonymous person. I don't  
5 know if they are anonymous or anonymous to me  
6 because I don't know who it was made a post on  
7 Twitter tagging the Long Island Railroad saying,  
8 Hey, Long Island Railroad -- it was something like,  
9 Hey, Long Island Railroad, where was your conductor,  
10 Steven Rosati, tagging him, tagging the Long Island  
11 Railroad on January 6th.

12 Q When it came to light that Mr. Rosati had  
13 been at the Capital on January 6, 2021, that was a  
14 problem for the Long Island Railroad?

15 MS. PASRICHA: Objection.

16 A The problem was originally when he was  
17 making videos. I spoke to him and then again it was  
18 a problem when we charged him for subterfuge for  
19 calling in sick and going to rallies when he was  
20 supposed to be working. It was a problem when he  
21 wasn't wearing masks and we had to write him up for  
22 that, and it was a problem when one of our managers  
23 did a train ride on him, he wasn't where he was  
24 supposed to be. There has been different various  
25 problems with Mr. Rosati. It came to head when the

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2 Long Island Railroad got posted in a public setting,  
3 where was your Long Island Railroad conductor this  
4 day, and then we had to investigate fully and make a  
5 decision and how we were going to proceed.

6 Q Why was that a problem that he had been at  
7 January 6th?

8 MS. PASRICHA: Objection.

9 A Because it put the company in bad light.

10 Q What about being at January 6th put the  
11 company in bad light?

12 A It overall was not considered to be a  
13 positive thing for the country.

14 Q Oh. What was the part about January 6th  
15 that was not positive for the country?

16 A I don't know specifically. I just know  
17 that it wasn't.

18 Q Were there internal discussions about  
19 whether January 6th was a positive or a negative for  
20 the country?

21 A No. It's a perception that is believed.

22 Q Believed by who?

23 A Believed by the general public.

24 Q Who are you to make that determination?

25 MS. PASRICHA: Objection.

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2 A Again, we felt his presence there put the  
3 company in bad light.

4 Q His presence at January 6th was a factor  
5 in his termination?

6 A It was a factor because it made us go  
7 backwards and investigate him more.

8 Q So the fact that Mr. Rosati was at  
9 January 6th caused the Long Island Railroad to  
10 investigate him more?

11 A No, not the fact he was at January 6th.  
12 The fact that the public recognized a Long Island  
13 Railroad conductor affiliated with something  
14 negative was the factor, not the fact that it was  
15 January 6th. If he was tagged and the Long Island  
16 Railroad and the public was made aware of posting  
17 the people found offense, that would have triggered  
18 it. It had nothing to do with January 6th. The  
19 fact that he was identified as Long Island Railroad  
20 conductor and people started sharing his post, we  
21 said this puts the company in bad light and this is  
22 a violation of our social media policy.

23 Q I'm missing the connection. He was  
24 identified as a Long Island Railroad conductor at  
25 January 6th. What was the problem specifically with

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2 him being a Long Island Railroad conductor who  
3 attended January 6th, what was the problem with  
4 that?

5 A We didn't know if we had a problem or not.  
6 We didn't know what his role was there. Once he was  
7 identified as a Long Island Railroad employee, we  
8 decided to review and research the other social  
9 media posts and see if there is any issues and we  
10 decided that he put the company in bad light and we  
11 decided to move forward with discipline.

12 Q What was the part about his behavior on  
13 January 6th that put the company in bad light?

14 A I don't know what he did on January 6th.  
15 We know he was tagged there. We don't know what he  
16 did there. We know he was tagged there and  
17 identified as being there and that's when the media  
18 and stuff was made aware. The whole thing of  
19 January 6th was he was tagged there and being  
20 affiliated with the Long Island Railroad.

21 Q If you don't know what he did there, why  
22 did it matter with the disciplinary process?

23 A He didn't get terminated for being at the  
24 Capital. He got terminated because he violated the  
25 corporate social media policy with all his different



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2 various posts with the affiliation with the Proud  
3 Boys and the hand signal and all that stuff put the  
4 company in a bad light.

5 Q The unproven affiliation with the Proud  
6 Boys?

7 MS. PASRICHA: Objection.

8 Q Was there any evidence provided at his  
9 discipline trial that he was affiliated with the  
10 Proud Boys or a member of the Proud Boys?

11 A I don't recall. I think maybe it was  
12 mentioned in posts.

13 Q You're saying he was not terminated  
14 because of January 6th, but the Long Island Railroad  
15 investigated Mr. Rosati because he attended  
16 January 6th, correct?

17 MS. PASRICHA: Objection.

18 A The Long Island Railroad investigated  
19 Mr. Rosati because the public recognized him and  
20 affiliated him with that and they said look at your  
21 conductor, see what you're doing and we decided to  
22 look and see what was going on further and he was  
23 recognized in a public setting.

24 Q What, if anything, did you determine about  
25 Mr. Rosati's activities on January 6th?

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2 MS. PASRICHA: Objection. Asked and  
3 answered. You can answer again.

4 A We didn't determine anything about him on  
5 January 6th. We conduct investigations. We left  
6 that to the authorities.

7 Q What did the authorities determine?

8 A I don't know.

9 Q Did the Long Island Railroad communicate  
10 with the FBI or any other law enforcement agency  
11 about Mr. Rosati?

12 A Not to my knowledge.

13 Q Did the Long Island Railroad communicate  
14 with the FBI or any other law enforcement agency  
15 about Mr. Rosati's presence at the Capital on  
16 January 6th?

17 A Not to my knowledge.

18 Q Did the Long Island Railroad communicate  
19 with any governmental agency about Mr. Rosati's  
20 presence at the Capital on January 6th?

21 A Not to my knowledge.

22 Q In that case how did the Long Island  
23 Railroad find out anything about Mr. Rosati's  
24 activities on January 6th?

25 A The activities on Twitter when he was

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2 identified by a person on Twitter and tagged, Long  
3 Island Railroad, where was your conductor and there  
4 was pictures.

5 Q Right. How would that have been relevant  
6 to starting an investigation?

7 A Because again, a Long Island Railroad  
8 employee was affiliated with something that was  
9 considered to be by many as a negative thing. We  
10 decided to do an investigation as we would do with  
11 any employee who was affiliated with anything  
12 negative. We started looking and saw the hand  
13 gestures and the decision was made to charge him.

14 Q He was charged because of his viewpoint  
15 about January 6th, correct?

16 MS. PASRICHA: Objection.

17 A He was charged based on his social media  
18 posts and it put the company in bad light.

19 Q Did you ever send any text messages about  
20 him?

21 A I don't recall. I probably may have, but  
22 I don't remember anything specific. I text my  
23 managers about tons of employees. We have employees  
24 that we need to follow up on. I have tons of  
25 employees we follow up on.

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2 Q Mr. Rosati was initially suspended with  
3 pay, correct?

4 A He was never -- we never -- he was  
5 originally going to be suspended with pay, correct.

6 Q Then he was ultimately suspended without  
7 pay?

8 A That's correct. He was taken out of  
9 service and suspended without pay.

10 Q Why was that changed?

11 A That's the decision that was made above  
12 me. I was not privy to why it was changed. I was  
13 told to do it one way and then a little time later I  
14 was told to do it another way.

15 Q You met with him in January 2021 and you  
16 told him initially that he was suspended with pay,  
17 correct?

18 A In the beginning when we do our statement  
19 of facts and I may have told the union -- I don't  
20 remember if I told him or I may have told the union  
21 we will probably suspend him without pay after we  
22 are done with the statement of facts and then we  
23 will continue -- we will review the statement of  
24 facts and talk to my boss.

25 If you take someone out of service

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2 right away, the clock starts and we have to have a  
3 trial in a certain amount of time. It was decided  
4 we were going to take him out of service.

5 Q Who decided that?

6 A I was instructed by the CTO, Spiro  
7 Papanikolatos.

8 Q Did you call Spiro or did he call you?

9 A I don't recall.

10 Q Spiro told you to reverse the original  
11 decision and told you to take him out of circulation  
12 and change the suspension from with pay to without  
13 pay?

14 MS. PASRICHA: Objection.

15 A The plan was to relieve him with pay.  
16 Somewhere in the middle of the statement of facts,  
17 someone made a decision above me, told Spiro to tell  
18 me to take him out of service. We had to take him  
19 out of service that day.

20 Q Why was that determination made to reverse  
21 course?

22 A I don't know, I don't ask. When my boss  
23 tells me to do something, it doesn't look well for  
24 me to ask them.

25 Q Why not?

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2 MS. PASRICHA: Objection.

3 Q Why not?

4 A Because that's -- I don't ask them why. I  
5 do what I'm told. They are my boss.

6 Q Bendick 7.

7 (Bendick Exhibit 7, Marked for Identification.)

8 Do you recognize this?

9 A Yes, I mean that's my name up there. It  
10 looks like a video. I don't know which one this one  
11 is. We looked at a lot of them.

12 Q What is this? Is this a text from you to  
13 someone else? Is this a text from someone else to  
14 you; what is this?

15 A I don't know. I see my name up there. I  
16 don't know if the text came to me or it's a text to  
17 someone else.

18 Q Did you ever have a text exchange with  
19 another Long Island Railroad employee about  
20 Mr. Rosati?

21 A Probably Ben, maybe Erin, maybe Spiro. I  
22 don't recall.

23 MR. PALTZIK: I call for production of all  
24 of Mr. Bendick's text messages. To date we  
25 only have that one.

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2 MS. PASRICHA: Put the request in writing.

3 Taken under advisement.

4 (Counsel Request.)

5 BY MR. PALTZIK:

6 Q Did you communicate about Mr. Rosati's  
7 disciplinary process via text?

8 A I don't recall.

9 Q Did you communicate about his disciplinary  
10 process by a Long Island Railroad email?

11 A I know we shared when we were doing  
12 research we were looking online, we were sharing  
13 some of the posts and pictures and sending them to  
14 Erin, but nobody out of the scope of who was  
15 involved in the investigation.

16 Q You talked earlier about January 6th being  
17 a negative event in this nation's history. Is that  
18 what you believe?

19 A I don't remember saying it about this  
20 nation's history. I said it's considered to be a  
21 negative event.

22 Q You considered January 6th to be a  
23 negative event?

24 MS. PASRICHA: Objection.

25 A One could say that people utilized their

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right to protest is a positive event. The fact that people were hurt and injured in it is a negative event. I don't have say about it either way to be honest with you.

Q Mr. Rosati had the right to be there on January 6th, correct?

MS. PASRICHA: Objection.

A Mr. Rosati was not expected to be at work. I believe he had a personal day so he had a right to be wherever he wanted to be. That's not my concern.

Q If he had the right to be at the Capital on January 6th, why did it trigger an investigation that he had been at the Capital?

MS. PASRICHA: Objection.

A As I previously stated, someone on Twitter recognized a Long Island Railroad conductor and tagged the Long Island Railroad and tagged everybody who has access to the Long Island Railroad to see look what your conductor was doing that day.

Q Some random person on Twitter has the power to trigger an investigation of an Long Island Railroad employee?

MS. PASRICHA: Objection. This is getting repetitive.



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2 MR. PALTZIK: My question stands and it's  
3 not repetitive.

4 A We monitor Twitter for many complaints. I  
5 get complaints on Twitter that this conductor said  
6 this to me or this conductor didn't collect my  
7 fares. We investigate all of them if we get tagged.

8 MR. PALTZIK: Also, I note I'm asking  
9 these questions precisely in an effort to bring  
10 this deposition to an end very shortly as I  
11 have no desire to keep Mr. Bendick any longer  
12 than is necessary, believe me.

13 Q Mr. Bendick, does the Long Island Railroad  
14 have a policy or practice of triggering  
15 investigations based on anonymous social media  
16 complaints?

17 A I can't speak for all of the Long Island  
18 Railroad. I know that when I was in charge of  
19 conductors at the time, if something was brought to  
20 my attention about a behavior of a conductor, it was  
21 my responsibility to investigate it. A simple thing  
22 is not wearing a hat to being identified as the  
23 stuff that Mr. Rosati was.

24 Q Were these anonymous complaints about  
25 Mr. Rosati, were these ultimately factors in his

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2 discipline?

3 A You keep saying anonymous complaints. The  
4 biggest thing was the anonymous Tweets that  
5 identified him as our Long Island Railroad  
6 conductor. That was the biggest thing that made us  
7 say what do we got going on here, we have to look  
8 into this gentleman more. I'm not privy to the  
9 complaints what we got, what we physically got. I  
10 don't know if our public affairs department got  
11 complaints, if our diversity department got  
12 complaints, I don't have that information. I can't  
13 speak to that.

14 MR. PALTZIK: At this time what I would  
15 like to do is if it's okay with you guys, I  
16 would like to conclude the deposition for  
17 today. I believe at this time that I likely do  
18 not have any further questions for Mr. Bendick.  
19 However, I would rather not make that final  
20 determination based on the time pressure of a  
21 personal deadline. I believe that this  
22 deposition is either concluded or close to --  
23 very close to concluded. If that's good enough  
24 for everybody right now, I would like to  
25 conclude for the day. I reserve the right to

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continue it, but I believe that there are  
either no more questions or very few. If  
that's good enough for you guys that's good  
enough for me.

MS. PASRICHA: Sure. I think that's good.

BY MR. PALTZIK:

Q Mr. Bendick, thank you and have a great  
rest of your day.

A Thank you. Be well, sir.

THE REPORTER: Counsel, will you be  
purchasing this transcript?

MS. PASRICHA: Yes.

(Time noted: 2:15 p.m.)

\_\_\_\_\_  
MICHAEL BENDICK

Subscribed and sworn to before me this \_\_\_\_ day  
of \_\_\_\_\_ 2023.

\_\_\_\_\_, Notary Public.

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# I N D E X

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Attorney Paltzik has retained all exhibits.

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C E R T I F I C A T I O N

STATE OF NEW YORK )

) ss.:

COUNTY OF NEW YORK )

I, RUTHAYN SHALOM, a Court Reporter  
and Notary Public within and for the State  
of New York, do hereby certify:

That the witness whose deposition  
is hereinbefore set forth, was duly sworn  
by me, and that the within transcript is a  
true record of the testimony given by such  
witness.

I further certify that I am not  
related to any of the parties to this action  
by blood or marriage, and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 29th day of September, 2023.

*Ruthayn Shalom*

RUTHAYN SHALOM

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\_\_\_\_\_  
MICHAEL BENDICK

Subscribed and sworn to before me

this \_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_, Notary Public.

\_\_\_\_\_  
MY COMMISSION EXPIRES:

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